



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “*Act*”), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted three signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on August 29, 2017, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that each of the tenants is deemed to have been served with the Direct Request Proceeding documents on September 03, 2017, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord G.M. and the tenants, indicating a monthly rent of \$1,065.00 due on the first day of the month for a tenancy commencing on June 01, 2014;

- Three copies of Notice of Rent Increase forms showing the rent being increased from \$1,065.00 to the current monthly rent amount of \$1,155.00;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 02, 2017, with a stated effective vacancy date of August 12, 2017, for \$1,155.00 in unpaid rent; and
- Copy of a letter from the landlord verifying the transfer of ownership and management of the rental unit as of May 31, 2017 to a company in which the landlord is a subsidiary, and therefore a proper party to this application.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 1:00 p.m. on August 02, 2017. The 10 Day Notice states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The Monetary Order Worksheet noted that \$1,155.00 of the \$1,155.00 identified as owing in the 10 Day Notice was paid in two installments, one on August 18, 2017 in the amount of \$115.00 and the other installment of \$1,000.00 on August 25, 2017.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on August 5, 2017, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,155.00, as per the tenancy agreement and Notice of Rent Increase forms.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that 5 day period.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, August 15, 2017 and the landlord is entitled to an Order of Possession.

I find that the tenants have paid the full rent owing in the amount of \$1,155.00 as set out in the Monetary Order Worksheet. For this reason, the amount being claimed for unpaid rent for August as part of this Application is dismissed, without leave to reapply.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant (s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 12, 2017

Residential Tenancy Branch