



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding COLDWELL BANKER PRESTIGE REALTY
and [tenant name suppressed to protect privacy]

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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 14, 2017, the Landlord sent the Tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The Landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the Landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant has been deemed served with the Direct Request Proceeding documents on September 21, 2017, the fifth day after the 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 and the Tenant on July 11, 2017, indicating a monthly rent of \$2,500.00, due on the first day of each month for a tenancy commencing on July 11, 2017;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 2, 2017, with a stated effective vacancy date of September 11, 2017, for \$3,890.00 in unpaid rent.

Witnessed documentary evidence filed by the Landlord indicates that the 10 Day Notice was posted on the door of the rental unit at 4:00 p.m. on September 2, 2017. The 10 Day Notice states that the Tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the Tenant was deemed served with the 10 Day Notice on September 5, 2017, three days after the day it was posted.

On the application for Dispute Resolution by Direct Request, the Landlord establishes a request for a monetary order in the amount of \$3,800.00 which arises from \$2,500.00 unpaid rent for August and September 2017. The monthly rent in the residential tenancy agreement was established to be \$2,500.00.

I note that while the 10 Day Notice to End Tenancy for Unpaid Rent indicates the tenant has failed to pay rent in the amount of \$3,890.00 the landlord has only claimed \$3,800.00. From the documentary evidence submitted I find the landlord has established the tenant has failed to pay rent in the amount claimed.

I find that the Tenant was obligated to pay the monthly rent in the amount of \$2,500.00, as per the tenancy agreement.

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

Based on the foregoing, I find that the Tenant is 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, September 15, 2017.

Therefore, I find that the Landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$3,800.00, the amount claimed by the Landlord, for unpaid rent owing for August 2017 and September 2017 as of September 13, 2017.

Conclusion

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

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$3,800.00 for rent owed for August 2017 and September 2017. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 22, 2017

Residential Tenancy Branch