



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GEORGIA COURT LP
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 two signed Proof of Services of the Notice of Direct Request Proceeding which declares that on September 14, 2017, the Landlord sent both Tenants individual copies of the Notice of Direct Request Proceedings by registered mail to the rental unit. The Landlord provided a copy of the Canada Post Customer Receipt 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 both Tenants have been deemed served with the Direct Request Proceeding documents on September 19, 2017, the fifth day after their registered mailings.

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 Tenants on June 1, 2016, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on June 15, 2016;
- 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 August 24, 2017, with a stated effective vacancy date of September 7, 2017, for \$5,040.00 in unpaid rent.

Witnessed documentary evidence filed by the Landlord indicates that the 10 Day Notice was personally served to both Tenants at 11:00 a.m. on August 24, 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.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 of the *Act*, I find that the Tenants were duly served with the 10 Day Notice on August 24, 2017, the day it was personally served.

I accept the evidence before me that the Tenants have 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 Tenants have conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, September 7, 2017.

I find that the monthly amount of rent owing on the Monetary Order Worksheet does not coincide with the residential tenancy agreement which was signed by the Landlord and the Tenants on June 1, 2016, indicating a monthly rent of \$1,200.00. Documentary evidence was not provided for how the rent increased from the original amount of \$1,200.00 to the present monthly amount being requested of \$1,260.00. For this reason, I allow only \$4,800.00 of the Landlord's application for a monetary award,

reflecting the \$1,200.00 monthly amount indicated on the residential tenancy agreement.

Therefore, I find that the Landlord is entitled to an Order of Possession for unpaid rent and a Monetary Order in the amount of \$4,800.00, the amounts owing for May 2017, June 2017, July 2017, and August 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(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.

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$4,800.00 for rent owed for May 2017, June 2017, July 2017, and August 2017. The Landlord is provided with this Order in the above terms and the Tenant(s) must be served with **this Order** as soon as possible. Should the Tenant(s) 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 21, 2017

Residential Tenancy Branch