



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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on September 21, 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 26, 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 a landlord, who is not the applicant (the First Landlord), on May 06, 2014, and a tenant, who is not a named tenant on the Application for Dispute Resolution (the Former Tenant), indicating a monthly rent of \$950.00, due on the first day of each month

for a tenancy commencing on June 01, 2014. The residential tenancy agreement contained initialed amendments and a notation signed by the tenants that they took over the lease as of August 01, 2014 and that the Former Tenant moved out on August 01, 2014;

- Residential Tenancy Amendment Agreement signed by the First Landlord, the Former Tenant and the tenants on July 18, 2014 indicating, among other things, the removal of the Former Tenant and the addition of the tenants to the residential tenancy agreement;
- A copy of a management agreement dated March 17, 2015 between the First Landlord and the landlord named as the applicant setting out, among other things, the appointment of the landlord as manager of the rental unit;
- Two copies of Notice of Rent Increase forms showing the rent being increased from \$950.00 to the current monthly rent amount of \$1,010.00;
- 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 06, 2017, with a stated effective vacancy date of September 19, 2017, for \$1,010.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 3:00 (a.m. or p.m. not indicated) on September 06, 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 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on September 09, 2017, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,010.00, as per the residential tenancy agreement, Residential Tenancy Amendment Agreement and the 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 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 are 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 19, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$1,010.00, the amount claimed by the landlord, for unpaid rent owing for September 2017 as of September 19, 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 \$1,010.00 for rent owed for September 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 28, 2017

Residential Tenancy Branch