



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 Notices of Direct Request Proceeding which declare that on September 22, 2017, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy 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 the tenants have been deemed served with the Direct Request Proceeding documents on September 27, 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 and the tenants on June 19, 2016, indicating a monthly rent of \$1,350.00, due on the first day of each month for a tenancy commencing on July 1, 2016;

- A copy of a receipt dated September 11, 2017, for \$1,000.00 of rent, paid by the tenants, which the landlord has indicated is “for use and occupancy only”; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 6, 2017, with a stated effective vacancy date of September 16, 2017, for \$2,700.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was sent to the tenants by registered mail at 12:46 pm on September 6, 2017. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. 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 11, 2017, five days after its registered mailing.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,350.00, as per the tenancy agreement.

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 corrected effective date of the 10 Day Notice, September 21, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of September 22, 2017.

Section 59(2) of the *Act* provides the following requirements regarding the Application for Dispute Resolution:

59 (2) An application for dispute resolution must

(a) be in the applicable approved form,

- (b) **include full particulars of the dispute that is to be the subject of the dispute resolution proceedings**, and
- (c) be accompanied by the fee prescribed in the regulations.

I note that the amount of rent listed on the 10 Day Notice does not match the amount requested by the landlord on the Application for Dispute Resolution. In order to claim for rent, the landlord must provide a Monetary Order Worksheet which clearly shows the months for which the tenant still owes rent.

The landlord has not provided a copy of the Monetary Order Worksheet which is a required particular of that application. I find that the Application for Dispute Resolution is incomplete, and for this reason, I dismiss the landlord's application for a Monetary Order with 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.

I dismiss the landlord's application for a Monetary Order with leave to reapply.

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 29, 2017

Residential Tenancy Branch