



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

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 October 16, 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 October 21, 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*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 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 and the tenant on July 21, 2016, indicating a monthly rent of

\$800.00, due on the first day of each month for a tenancy commencing on August 1, 2016;

- A copy of a letter showing the transfer of management responsibilities from the former landlord, who is named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution;
- 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 July 22, 2017, with a stated effective vacancy date of August 6, 2017, for \$820.00 in unpaid rent for July 2017;
- A copy of a Proof of Service Notice to End Tenancy form accompanied by a Canada Post Customer Receipt containing the Tracking Number to confirm the 10 Day Notice for July 2017 was sent to the tenant by registered mail on July 22, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 23, 2017, with a stated effective vacancy date of October 8, 2017, for \$820.00 in unpaid rent for August 2017;
- A copy of a second 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 23, 2017, with a stated effective vacancy date of October 8, 2017, for \$820.00 in unpaid rent for September 2017; and
- A copy of a Proof of Service Notice to End Tenancy form accompanied by a Canada Post Customer Receipt containing the Tracking Number to confirm the 10 Day Notices for August 2017 and September 2017 were sent to the tenant by registered mail on September 23, 2017.

The 10 Day Notices state 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 for July 2017 on July 27, 2017, five days after its registered mailing. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notices for

August 2017 and September 2017 on September 28, 2017, five days after its registered mailing.

I find that the tenant was obligated to pay the monthly rent in the amount of \$800.00, 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 Notices within their respective five day periods.

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 effective date of the 10 Day Notice for July 2017, August 6, 2017.

I note that the only monetary award available to a landlord by way of the direct request process is for unpaid rent and unpaid utilities. As the landlord has also sought a monetary award for matters relating to parking, I would not be able to consider this aspect of the landlord's claim through the direct request process.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$2,310.00, the amount claimed by the landlord, for unpaid rent owing for July 2017, August 2017, and September 2017 as of October 12, 2017.

As the landlord was partially successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

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 sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,410.00 for rent owed for July 2017, August 2017, and September 2017 and for the recovery of the filing fee for this application. 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.

I dismiss the monetary portion of the landlord's application relating to parking fees 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: October 23, 2017

Residential Tenancy Branch