



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPUM-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 November 2, 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 is deemed to have been served with the Direct Request Proceeding documents on November 7, 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 the landlord and the tenant on June 18, 2015, indicating a monthly rent of \$550.00, due on the first day of each month for a tenancy commencing on June 19, 2015;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- Seventeen copies of utility bills from Fortis BC for the rental unit from January 27, 2016 to May 25, 2017 totaling \$1,305.36;
- Ten copies of utility bills from BC Hydro for the rental unit from January 26, 2016 to July 27, 2017 totaling \$1,526.11;
- A copy of a demand letter from the landlord to the tenant, dated June 9, 2017, requesting payment of utilities in the amount of \$491.29;
- A copy of a Proof of Service Written Demand to Pay Utilities form which indicates that the landlord sent the tenant the utility demand letter by registered mail at 2:40 pm on June 11, 2017. The landlord included the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 21, 2017, with a stated effective vacancy date of October 30, 2017, for \$1,650.00 in unpaid rent and \$491.29 in unpaid utilities; and
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was placed in the tenant's mailbox or mail slot at 2:30 pm on October 21, 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 utilities demand letter on June 16, 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 Notice on October 24, 2017, three days after it being placed in the mailbox or mail slot.

I find that the tenant was obligated to pay the monthly rent in the amount of \$550.00 and 25% of the utilities, 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, November 3, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$2,141.29, the amount claimed by the landlord, for unpaid rent owing for August 2017, September 2017, and October 2017 as well as the unpaid utilities owing for the period of January 2016 to May 2017 as of November 1, 2017.

As the landlord was 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 \$2,241.29 for rent owed for August 2017, September 2017, and October 2017, for unpaid utilities owing for the period of January 2016 to May 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.

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: November 08, 2017

Residential Tenancy Branch