



Dispute Resolution Services

Page: 1

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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on October 14, 2017, the landlord personally served the tenants the Notices of Direct Request Proceeding. The landlord had the tenants sign the respective Proofs of Service of the Notice of Direct Request Proceeding for each tenant to confirm personal service. Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that the tenants have been duly served with the Direct Request Proceeding documents on October 14, 2017, the day it was personally served to them.

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 on November 01, 2016, by Tenant K.G. on February 11, 2017 and signed but not

dated by Tenant D.S., indicating a monthly rent of \$750.00, due on the first day of each month for a tenancy commencing on November 01, 2016;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated September 16, 2017 for \$2,375.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides 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 on the stated effective vacancy date of September 26, 2017;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally handed to Tenant K.G. at 11:45 a.m. on September 16, 2017 and to Tenant D.S. on September 16, 2017; and
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

It is important to note that Tenant D.S. first name on the tenancy agreement is spelled differently than his first name on the other documents provided in evidence. However, I am satisfied that this is an inadvertent error and that a reasonable person would know that Tenant D.S. referred to in the tenancy agreement is the same person as Tenant D.S. referred to in the remaining documents. Therefore, pursuant to the provisions of sections 62 and 64 of the *Act*, I have amended the Landlord's application to include both spellings of Tenant D.S.'s first name.

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on September 16, 2017.

I find that the tenants were obligated to pay the monthly rent in the amount of \$750.00, 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 effective date of the 10 Day Notice, September 26, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$2,375.00, the amount claimed by the landlord, for unpaid rent owing for April 2017 through to and including September 2017, as of October 03, 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(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 sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,475.00 for rent owed for April 2017 through to and including 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(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 *Act*.

Dated: November 30, 2017

Residential Tenancy Branch