



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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on December 20, 2017, the landlord personally served each of the tenants the Notice of Direct Request Proceeding. The landlord had a witness sign the Proofs of Service of the Notices of Direct Request Proceeding 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 December 20, 2017.

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 tenants on August 27, 2017, indicating a monthly rent of \$950.00, due on the

twenty seventh day of each month for a tenancy commencing on August 27, 2017;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated November 15, 2017 for \$950.00 in unpaid rent (the first 10 Day Notice). The first 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 November 25, 2017;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the first 10 Day Notice was personally served to the tenants on November 15, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated November 28, 2017 for \$950.00 in unpaid rent (the second 10 Day Notice). The second 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 December 7, 2017;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the second 10 Day Notice was personally served to the tenants on November 28, 2017; and
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Monetary Order Worksheet noted that, of the \$950.00 identified as owing in the first 10 Day Notice, \$150.00 was paid on October 25, 2017 and \$500.00 was paid on November 11, 2017. The Monetary Order Worksheet also notes that there was a payment made of \$225.00 after the second 10 Day Notice was issued to the tenants.

Analysis

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 first 10 Day Notice on November 15, 2017 and the second 10 Day Notice on November 28, 2017.

I find that the tenants were obligated to pay the monthly rent in the amount of \$950.00, as per the tenancy agreement.

I accept the evidence before me that the tenants 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 either of the 10 Day Notices within their respective five day periods.

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 second 10 Day Notice, December 8, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$1,025.00, the amount claimed by the landlord, for unpaid rent owing for November 2017 and December 2017 as of December 13, 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 \$1,125.00 for rent owed for November 2017 and December 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 *Residential Tenancy Act*.

Dated: December 21, 2017

Residential Tenancy Branch