



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 19, 2018, the landlord posted the Notice of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submission of the landlord and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on January 22, 2018.

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*?

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 October 14, 2017, indicating a monthly rent of \$1,250.00, due on the first day of each month for a tenancy commencing on November 1, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 7, 2018 for \$1,250.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides 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 on the stated effective vacancy date of January 17, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 10:15 am on January 7, 2017;
- A copy of two personal cheques dated January 1, 2018 for \$1,250.00 and January 15, 2018 for \$1,250.00; and
- A Direct Request Worksheet and bank statement showing the rent owing and paid during the relevant portion of this tenancy. The bank statement indicates that the rent cheque dated January

1, 2018 was returned on January 4, 2018 and the cheque dated January 15, 2018 was returned on January 17, 2018.

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 on January 10, 2018, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,250.00, 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 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, January 20, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for January 2018 as of January 19, 2018.

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.

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: January 23, 2018

Residential Tenancy Branch