



Dispute Resolution Services

Page: 1

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 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 January 24, 2018, 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*?

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 August 29, 2016, indicating a monthly rent of \$1,650.00, due on the first day of each month for a tenancy commencing on October 1, 2016;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated July 3, 2017 for \$4,950.00 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 14, 2018;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenant by registered mail at 4:43 pm on January 4, 2018;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the 10 Day Notice was sent to the tenant on January 3, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

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 8, 2018, five days after its registered mailing.

Section 68 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the date of the 10 Day Notice is July 3, 2017 although the Notice was given to the tenant for rent owing for November 2017, December 2017, and January 2018. The evidence also establishes that the 10 Day Notice was sent by registered mail on January 3, 2018. For this reason, I have amended the date of the 10 Day Notice to reflect the day it was sent to the tenant, January 3, 2018.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,650.00, 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 18, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for November 2017, December 2017, and January 2018 as of January 17, 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 25, 2018

Residential Tenancy Branch