



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 23, 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 submission 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 28, 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 December 09, 2015, indicating a monthly rent of \$650.00, due on the first day of each month for a tenancy commencing on December 09, 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated December 27, 2017 for \$1,962.00 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;

- Copies of 12 letters of various dates from the landlord to the tenant regarding, among other things, outstanding rent;
- 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 2:45 p.m. on December 27, 2017; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

It is important to note that the tenant's last name on the tenancy agreement is spelled differently than his last name on the Application for Dispute Resolution and other documents provided in evidence. However, I am satisfied that this is an inadvertent error and that a reasonable person would know that the tenant referred to in the tenancy agreement is the same person as the tenant referred to in the Application for Dispute Resolution and 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 the tenant's last name.

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 01, 2018, five days after its mailing.

I find that the tenant was obligated to pay the monthly rent in the amount of \$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 effective date of the 10 Day Notice, January 17, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for January, April, July, October, November, and December, 2017 as of January 25, 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 *Act*.

Dated: January 29, 2018

Residential Tenancy Branch