



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

Preliminary Matters

The landlord named two people as respondents in their Application for Dispute Resolution; however, I find that the residential tenancy agreement submitted by the landlord is only signed by Tenant R.Y. I find that I am only able to proceed against the tenant who signed the residential tenancy agreement.

Section 64(3)(c) allows me to amend a landlord's Application for Dispute Resolution to remove the respondent A.Q.. who has not signed the tenancy agreement, which I have done.

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 26, 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 31, 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 May 30, 2009, indicating a monthly rent of \$1,100.00, due on the first day of each month for a tenancy commencing on June 01, 2009;
- A copy of a Notice of Rent Increase form showing the rent being increased from \$1,000.00 to \$1,025.00. I note the amount of monthly rent stated on the Notice of Rent Increase and the Direct Request Worksheet is lower than the monthly rent set out in the tenancy agreement;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 10, 2018 for \$3,640.30 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 25, 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 3:00 p.m. on January 12, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

I note that the name of the city in which the tenant must vacate as indicated on the 10 Day Notice is different than the city on all other documents submitted (e.g., the tenancy agreement, the Application for Dispute Resolution, and the proof of service documents). I am satisfied that this is an inadvertent error and that the person receiving the notice knew, or should have known, the correct city of the rental unit which was omitted from the notice. Accordingly, I have amended the address on the 10 Day Notice to match all other information provided for the address as per section 68(1) of the *Act*, as it is reasonable to do so under the circumstances.

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 15, 2018, three days after its posting.

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 25, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for November and December 2017 and January 2018, 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(s). Should the tenant(s) and **any other occupant** 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: February 01, 2018

Residential Tenancy Branch