



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR MNR

Introduction

This matter was conducted by way of 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 Landlords for an order of possession and a monetary order due to unpaid rent (the “Application”). A participatory hearing was not convened.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 2, 2018, the Landlords served each of the Tenants with the Notice of Direct Request Proceeding documents via registered mail. Canada Post registered mail receipts were also submitted in support. Sections 89 and 90 of the *Act* state a document sent by registered mail is deemed to be received five days later. Based on the written submissions and documentary evidence submitted by the Landlord, I find that the Tenants are deemed to have been served with the Direct Request Proceeding documents on March 7, 2018.

Issues to be Decided

1. Are the Landlords entitled to an order of possession for unpaid rent or utilities?
2. Are the Landlords entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

In support of the Application, the Landlords submitted a copy of the tenancy agreement between the parties, signed on July 25, 2017. The tenancy agreement confirms the month-to-month tenancy began on July 1, 2017. Rent in the amount of \$1,800.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$900.00 and a pet damage deposit of \$200.00.

The Landlords also submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 2, 2018 (the “10 Day Notice”). Documentary evidence filed by the Landlords indicates the Tenants failed to pay rent when due on February 1, 2018, and that the Tenants were served with the 10 Day Notice by regular mail on February 2, 2018. The 10 Day

Notice states the Tenants had five days to pay the rent in full or dispute the 10 Day Notice by filing an application for dispute resolution.

Analysis

I have reviewed all documentary evidence and accept that the Tenants were duly served with the 10 Day Notice. Pursuant to sections 89 and 90 of the *Act*, documents served by regular mail are deemed to be received five days later. I find the 10 Day Notice is deemed to have been received by the Tenants on February 7, 2018. I accept the evidence before me that the Tenants failed to pay the rent owed in full within the 5 days after receipt of the 10 Day Notice, as required under section 46(4) of the *Act*. Accordingly, I grant the Landlords a monetary order in the amount of \$1,900.00, which is comprised of \$1,800.00 in unpaid rent and \$100.00 in recovery of the filing fee.

Based on the foregoing, I also find the Tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. Accordingly, I grant the Landlords an order of possession, which will be effective two (2) days after service on the Tenants.

Conclusion

I find the Landlords are entitled to an order of possession, effective two (2) days after service on the Tenants. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlords may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the Landlords are entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of \$1,900.00. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlords may file the order in the Provincial Court of British Columbia (Small Claims) and be 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: March 8, 2018

Residential Tenancy Branch