



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

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 both an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declared the landlord sent both tenants a Notice of Direct Request Proceeding by registered mail on March 16, 2018. Based on the written submission of the landlord and in accordance with sections 89(2) and 90 of the *Act*, I find that both tenants have been deemed served with the Notice of Direct Request Proceeding documents on March 21, 2018, the fifth day after these were mailed.

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*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenants including the Canada Post Registered Mail receipts;
- A copy of the Residential Tenancy Agreement which was signed by both tenants on August 30, 2009, indicating a monthly rent of \$1,200.00 due on the first day of the month for a tenancy commencing on Sept 10, 2009.
- A Direct Request Worksheet indicating that there is \$600.00 of rent outstanding for January 2018 and \$1,200.00 of rent outstanding for both February and March 2018 for a total claim of \$3,000.00 of unpaid rent.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 7, 2018; indicating that it was posted to the tenants' door on March 7, 2018 with a stated effective vacancy date of March 20, 2018 and for \$3,000.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicated that the 10 Day Notice was posted to the tenants' door at 1:30 pm on March 7, 2018. The 10 Day Notice stated that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

I have reviewed all documentary evidence and in accordance with Section 26 of the Act, I find that the tenants were obligated to pay the monthly rent in the amount of \$1,200.00 as per the tenancy agreement dated September 10, 2009.

In accordance with Sections 88 and 90 of the Act, I find that the tenants were deemed served with the 10 Day Notice on March 10, 2018, three days after its posting.

I accept the evidence before me that the tenants have 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 tenants are 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, March 20, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$3,000.00, the amount claimed by the landlord, for unpaid rent owing for January, February and March 2018 as of March 21, 2018.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$3,100.00 for rent owed for January, February and March 2018 and for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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 21, 2018

Residential Tenancy Branch