



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 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 declares that on March 20, 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 registered mail 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 March 25, 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*?

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 a residential tenancy agreement signed by the landlord and the tenant indicating the date of signing as August 2017, although the actual day the agreement was signed is missing. The tenancy agreement includes an *Addendum for Units Where*

the Rent is Related to the Tenant's Income, which forms part of the tenancy agreement. This addendum is signed and dated August 24, 2017, therefore I will consider this as the date the tenancy agreement was entered into by the parties. Although the tenancy agreement indicates a monthly rent of \$1,200.00, the tenant receives subsidized rent and pays a monthly amount of \$660.00. As part of the evidentiary material, the landlord has submitted a copy of a letter, dated September 12, 2017 from Affordable Housing Societies, addressed to the tenant which confirms the subsidized rent contribution monthly amount of \$660.00. The tenancy agreement establishes that the tenancy commenced on September 1, 2017 and requires rent to be paid on the first day of each month.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 2, 2018 for \$1,320.00 in unpaid rent. 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 March 12, 2018;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 7:00 a.m. on March 2, 2018; and
- A Direct Request Worksheet showing the rent claimed during the relevant portion of this tenancy.

Analysis

I note that the tenant's last name indicated on the 10 Day Notice submitted by the landlord contains a minor typographical error. As it is reasonable to conclude that the tenant would have known that this was a minor typographical error, subsection 68(1) (a) of the *Act* allows me to amend the 10 Day Notice to match the tenancy agreement and the Application for Dispute Resolution, which I have done.

I have reviewed all the 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 March 5, 2018, three days after its posting.

I find that the tenant was obligated to pay the monthly subsidized rent contribution in the amount of \$660.00, as per the tenancy agreement and the letter to the tenant dated September 12, 2017 from Affordable Housing Societies, which confirms the monthly subsidized rent contribution amount.

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 sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, March 15, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$1,320.00 for unpaid rent owing for February and March 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 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.

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1,420.00 for rent owed for February and March 2018 and for the recovery of the \$100.00 filing fee for this application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant 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 29, 2018

Residential Tenancy Branch