



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on March 13, 2018, the landlord was witnessed serving each tenant individually in person with the Notice of Direct Request Proceeding at the rental unit. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that both tenants are deemed to have been served with the Direct Request Proceeding documents on March 13, 2018.

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 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 tenants on October 20, 2017, indicating a monthly rent of \$2,400.00, due on the first day of each month for a fixed-term one-year tenancy commencing on November 1, 2017 and ending on October 31, 2018.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 9, 2018 for \$2,400.00 in unpaid rent. The 10 Day Notice provides 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 on the stated effective vacancy date of February 20, 2018;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to one of the tenants at 6:30 (a.m. or p.m. is not indicated) on February 9, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The landlord has submitted evidence that the tenants made two partial rent payments: \$300.00 on February 20, 2018 and \$200.00 on March 3, 2018, for a total of \$500.00. Given these payments, the amount of rent owed by the tenants for February 2018 is reduced from \$2,400.00 to \$1,900.00 as of March 3, 2018. In addition, the landlord's Application for Dispute Resolution notes that the rent for March 2018 has not been paid by the tenants.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on February 9, 2018.

I find that the tenants were obligated to pay the monthly rent in the amount of \$2,400.00, as per the tenancy agreement.

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 sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, February 20, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession 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 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 section 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00 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 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 29, 2018

Residential Tenancy Branch