



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNRL 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 landlords for an Order of Possession based on unpaid rent and a Monetary Order for unpaid rent.

The landlord filed the application for dispute resolution proceeding with four tenants listed. In reviewing the tenancy agreement, it was determined that there are three tenants and one guarantor. For the purposes of this dispute resolution proceeding, the three tenants listed on the tenancy agreement will be considered tenants and the guarantor, CD, will be removed from the application as a tenant. As per section 64(3)(c) of the *Act*, the application is considered amended;

Dispute resolution proceedings generally

- 64** (1) [Repealed 2006-35-88.]
- (2) The director must make each decision or order on the merits of the case as disclosed by the evidence admitted and is not bound to follow other decisions under this Part.
- (3) Subject to the rules of procedure established under section 9
- (3) [*director's powers and duties*], the director may
- (a) deal with any procedural issue that arises,
 - (b) make interim or temporary orders, and
 - (c) **amend an application for dispute resolution** or permit an application for dispute resolution to be amended.

Four signed Proof of Service of the Notice of Direct Request Proceedings were submitted as evidence, stating that the landlord served notice of the proceeding to the tenants on March 16, 2018 by registered mail in accordance with section 89 of the *Act*. These notices were deemed received on March 21, 2018, five days after mailing, in accordance with section 90(a) of the *Act*.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

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

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the tenancy agreement which was signed by the landlords and tenants, DD and CH on August 20, 2017 for a tenancy that started on August 16, 2017, indicating a monthly rent of \$2,800.00 due on the first of the month;
- A copy of an undated addendum to the tenancy agreement that indicates the addition of BD as a tenant;
- A copy of a 10 Day Notice to End Tenancy dated March 2, 2018 (the 10 Day Notice) with DD and CH listed as tenants with a stated vacancy of March 17, 2018;
- A Schedule of Parties form adding BD as a tenant and TP as a landlord;
- Proof of Service of the 10 Day Notice and registered mail receipts indicating service to the respondents by registered mail sent March 2, 2018;
- A copy of the Direct Request Worksheet showing unpaid rent in the amount of \$2,800.00 for February 2018 and \$2,800.00 for March 2018; and
- Copies of four Proof of Service of the Notice of Direct Request Proceeding forms sent to each respondent along with receipts for registered mail sent March 16, 2018.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 the *Act*, I find that the tenants were deemed served with the 10 Day Notice on March 7, 2018, five days after it was mailed. As per the tenancy agreement, I find that the tenants were obligated to pay \$2,800.00 rent per month. I accept the evidence submitted by the landlords 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 this information, I find that the tenancy ended on the effective date of the 10 Day Notice of March 17, 2018.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent owing for February 2018 and March 2018 as of March 12, 2018.

Conclusion

I grant an Order of Possession to the landlords 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 landlords a Monetary Order in the amount of \$5,600.00 for rent owed for February and March 2018 and \$100.00 for the recovery of the filing fee for this application, for a total amount of \$5,700.00. 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 26, 2018

Residential Tenancy Branch