



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 signed Proof of Service of the Notice of Direct Request Proceedings which declares that on March 20, 2018, the landlord sent the Notice to the tenant through Canada Post registered mail. The landlord provided a copy of the Canada Post 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 has been deemed 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 which was signed by a landlord who is not the applicant and tenant on May 29, 2015, indicating a monthly rent of \$775.00 due on the first day of the month for a tenancy commencing on June 1, 2015;
- A copy of a letter showing the transfer of management responsibilities from the former landlord, who is named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution;
- Two copies of Notice of Rent Increase forms showing the rent had been increased twice during the tenancy; from \$775.00 to the monthly rent amount of \$790.00 in June 2016 and from \$790.00 to the monthly rent amount of \$815.00 in June 2017;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Direct Request Worksheet noted that \$450.00 of the \$815.00 identified as owing in the 10 Day Notice was paid on March 10, 2018;
- A copy of a 10-Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 7, 2018 for \$815.00 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 20, 2018; and
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was attached to the tenant's door or other conspicuous place at 11:10 am on March 7, 2018.

Analysis

I note that the Application for Dispute Resolution submitted by the landlord shows the tenant's address without a unit number provided. The correct and complete address is shown on the tenancy agreement and the 10 Day Notice served to the tenant. Subsection 64(3) (c) allows me to amend the application to match the tenancy agreement and the 10 Day Notice, which I have done.

I have reviewed all 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 10, 2018, three days after it was attached to the tenant's door or other conspicuous place.

I find that the tenant was obligated to pay the monthly rent in the amount of \$815.00, as per the tenancy agreement and the Notices of Rent Increase.

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 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 \$365.00, the amount claimed by the landlord, for unpaid rent owing for March 2018 as of March 16, 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 \$465.00 for rent owed for 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 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 28, 2018

Residential Tenancy Branch