



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 claim for unpaid rent and the filing fee.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 20, 2018, the landlord served the tenant the Notice of Direct Request Proceeding by registered mail; the Canada Post receipts were provided as evidence. Pursuant to the deeming provisions in section 90 of the *Residential Tenancy Act*, I find that service was effected five days after it was mailed, on March 25, 2018.

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*?

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 the landlord and the tenant on January 14, 2017, indicating a monthly rent of \$1,200.00, due on the first day of the month for a tenancy commencing on January 12, 2017 for a one year term. The term reverted to a month-to-month tenancy as of February 1, 2018 as per the terms of that agreement.
- A Monetary Order Worksheet showing the rent owing in the sum of \$1,200.00 for February and \$1,200.00 for March; total owing is calculated at \$2,400.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 10, 2018, with a stated effective vacancy date of March 19, 2018, for \$2,400.00 in unpaid rent.

Evidence filed by the landlord indicates that the final 10 Day Notice was served by posting it on the tenant's door at 12:25 pm on March 10, 2018; a witness signed a statement confirming this service. The 10 Day Notice states 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.

Analysis

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 13, 2018, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,200.00 as per the tenancy agreement. 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 section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, March 23, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for March 2018 as of March 23, 2018.

I further order that the landlord is entitled to a monetary award of \$2,400.00 for rent arrears owing for February and March of 2018.

As the landlord was successful in this application, I am prepared to award the filing fee of \$100.00.

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 section 67 of the *Act*, I further grant a Monetary Order for payment of rent arrears of \$2,400.00 to the landlord by the tenant forthwith. 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 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