



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 also applied for the filing fee pursuant to section 72 of the *Act*.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 23, 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 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 28, 2018, the fifth day after their registered mailing.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. 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 signed copy of a residential tenancy agreement, indicating a monthly rent of \$690.00, due on the first day of each month for a tenancy commencing on April 1, 2013.
- A signed copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 3, 2018 for \$715.00 in unpaid rent. The 10 Day Notice provides that the Tenant has 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 14, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the Tenant's door at 2:00 p.m. on March 3, 2018 and that this service was witnessed by a third party;
- A copy of a Direct Request Worksheet showing the monthly breakdown of rent owed in the amount of \$715.00. The worksheet indicates a total outstanding balance of \$715.00;
- A copy of a Notice of Rent Increase dated October 23, 2017 showing a starting rent of \$690.00, a rent increase of \$25.00 and a total new rent of \$715.00 payable starting on February 1, 2018;
- A picture of an envelope with the initials J.S. written on it taped to a door; and
- Copies of 5 previous Notice to End Tenancy for Unpaid Rent forms of various dates.

Analysis

I have reviewed all documentary evidence 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 6, 2018, three days after its posting.

I find that on March 1, 2018 the Tenant was obligated to pay the monthly rent in the amount of \$715.00, as per the tenancy agreement and the Notice of Rent Increase dated October 23, 2017.

I find that the Tenant failed to pay rent on March 1, 2018 in the amount of \$715.00 as stated in the 10 Day Notice dated March 3, 2018. I further find that the Tenant 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) and section 53(2) of the *Act* to have accepted that the tenancy ended on the

corrected effective date of the 10 Day Notice, that being March 16, 2018. Therefore, I find that the Landlord is entitled to an Order of Possession.

As the Landlord is successful in this application, pursuant to section 72 of the *Act*, I find that the Landlord is entitled to recover the filing fee for this application.

Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service 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 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$100.00 for 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: April 4, 2018

Residential Tenancy Branch