



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, represented by their named agent, Vancouver Eviction Services, submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 24, 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 29, 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 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 February 8, 2018, indicating a monthly rent of \$725.00, due on the first day of the month for a tenancy commencing on February 1, 2018.

- A Monetary Order Worksheet showing the rent owing in the sum of \$725.00 for February and \$725.00 for March for a total of \$1,450.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 9, 2018, with a stated effective vacancy date of March 17, 2018, for \$1,450.00 in unpaid rent.

Evidence filed by the agent for the landlord indicates that the final 10 Day Notice was served by posting it on the tenant's door at an unspecified time on March 9, 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 effectively served with the 10 Day Notice on March 12, 2018.

I find that the tenant was obligated to pay the monthly rent in the amount of 725.00 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 22, 2018.

I further find that the landlord is entitled to an Order of Possession for unpaid rent owing for February and March of 2018.

The landlord has filed a monetary claim for payment of the arrears in rent. I am satisfied that the rent in the sum of \$1,450.00 is currently outstanding and an order will be issued for payment by the tenant. As the landlord was successful in this application for possession, I am also 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.

I find the landlord is entitled to monetary compensation pursuant to Sections 67 and 72 and I grant a monetary order in the amount of **\$1,550.00** comprised of \$1,450.00 rent owed and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 3, 2018

Residential Tenancy Branch