



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO MAYBACH HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the *Act*). The landlord is seeking an Order of Possession and a Monetary Order.

The hearing was conducted via teleconference. The landlord's representative (the *landlord*) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 AM to enable the tenant to participate in the hearing scheduled for 9:30 AM. I confirmed the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

This matter was originally conducted by way of the Direct Request process. A participatory hearing was not convened. However, the Adjudicator could not determine rent paid since the issuance of the 10 Day Notice to End Tenancy for Unpaid Rent (*the 10 Day Notice*) as the Direct Request Worksheet was incomplete. The adjudicator ordered that the direct request proceeding be reconvened in accordance with Section 74 of the *Act* to determine the details of the landlord's application.

The landlord testified the tenant was served with the Notice of Reconvened Hearing documents pursuant to Section 59(3) and 89 of the *Act* by registered mail on April 21, 2018. The landlord provided the Canada Post tracking number for the registered mail.

Pursuant to Section 90, the tenants are deemed served on April 26, 2018, the 5th day after mailing.

Based on the submissions of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act* and is deemed to have received the Notice of Reconvened Hearing package on April 26, 2018.

Issue(s) to be Decided

The issues to be decided:

- Is the landlord entitled to an Order of Possession pursuant to Section 46 and 55 of the *Act*?
- Is the landlord entitled to a Monetary Order pursuant to Section 67 of the *Act*?
- Is the landlord entitled to reimbursement of the filing fee pursuant to Section 72(1) 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 March 25, 2015, indicating a monthly rent of \$850.00, due on the first day of each month, for a tenancy commencing on April 01, 2015;
- A copy of the 10 Day Notice dated November 21, 2017, for \$2,550.00 in unpaid rent. The 10 Day Notice provides 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 December 03, 2017 (corrected to December 04, 2017);
- 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 on November 21, 2017 thereby effecting service three days after posting on November 24, 2018 pursuant to Sections 88 and 90; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy indicating rent was not paid for the months of September, October and November 2017.

The landlord provided uncontradicted testimony no rent has been received after service of the 10 Day Notice and rent of \$7,650.00 for nine months is unpaid and owing to the landlord.

The landlord testified the tenant continues to reside in the property.

Analysis

I have reviewed all documentary evidence and testimony. I am satisfied the form and content of the landlord's 10-Day Notice complies with Section 52 of the *Act*. I am satisfied the tenant has been served with the 10-Day Notice on November 24, 2017 in accordance with Section 88 and 90 of the *Act* and with the Notice of Hearing documents in accordance with Section 89 of the *Act*.

I am satisfied the tenant has not paid the overdue rent or disputed the 10-Day Notice within the five-day period following service on November 24, 2017. Therefore, pursuant to Section 46(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice (being the corrected date of December 4, 2017) requiring the tenant to vacate the rental unit by that date.

The landlords are therefore entitled to an Order of Possession pursuant to Section 55 of the *Act*.

Based on the landlord's submissions and testimony, the tenants are deemed served with the Notice of Reconvened Hearing package on April 26, 2018 pursuant to Section 90 of the *Act*.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a Monetary Order pursuant to Section 67 in the amount of \$7,650.00 for unpaid rent as well as the \$100.00 filing fee paid by the landlord for this application for a total of \$7,750.00.

Conclusion

I grant the landlord an Order of Possession effective two days after service on the tenant. This Order must be served on the tenant. If the tenant fails to comply with this Order, the landlord may file the Order with the Supreme Court of British Columbia to be enforced as an Order of that Court.

I grant a Monetary Order in the amount of **\$7,750.00** comprised of \$7,650.00 in unpaid rent and the \$100.00 filing fee paid by the landlord for the 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: June 11, 2018

Residential Tenancy Branch