



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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 01, 2018, the landlord sent Tenant W.C. 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 Tenant W.C. has been deemed served with the Direct Request Proceeding documents on June 06, 2018, the fifth day after their registered mailing.

The landlord has not provided a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant R.J. and has not established that Tenant R.J. has been served with the Notice of Direct Request Proceeding.

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 W.C., indicating a monthly rent of \$700.00, due on the first day of each month for a tenancy commencing on May 01, 2017;
- A copy of a document 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;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated 2018 07, 2018, for \$2,150.00 in unpaid rent. The 10 Day Notice provides that the tenants 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 May 17, 2018;
- A copy of a witnessed Proof of Service Notice to End which indicates that the 10 Day Notice was posted to the tenants' door at 2:00 p.m. on May 07, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

Section 68 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the date of the 10 Day Notice is incomplete. For this reason, I have amended the date of the 10 Day Notice to reflect the day it was witnessed being posted to the door of the rental unit, May 07, 2018. I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on May 10, 2018, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$700.00, as per the tenancy agreement. I accept the evidence before me that the tenants have 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 tenants are conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, May 20, 2018.

As the landlord has not established that Tenant R.J. has been served with the Notice of Direct Request Proceeding, I dismiss the monetary portion of the landlord's application naming Tenant R.J. as a respondent, without leave to reapply.

I note that the only monetary award available to a landlord by way of the direct request process is for unpaid rent and unpaid utilities. As the landlord has also sought a monetary award for matters relating to late fees in the amount of \$50.00, I would not be able to consider this aspect of the landlord's claim through the direct request process. For the above reason the landlord's monetary claim for late fees is dismissed, with leave to reapply

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award against Tenant W.C. in the amount of \$2,100.00, for unpaid rent owing for March 2018, April 2018 and May 2018 as of May 22, 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(s). Should the tenant(s) 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 \$2,200.00 for rent owed for March 2018, April 2018 and May 2018 as well as for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and Tenant W.C. must be served with **this Order** as soon as possible. Should Tenant W.C. 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: June 07, 2018

Residential Tenancy Branch