



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 landlords (the landlord) for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted three signed Proof of Service of the Notice of Direct Request Proceedings which declare that on June 22, 2018, the landlord personally served the tenants the Notices of Direct Request Proceeding. The landlord had a witness sign the respective Proofs of Service of the Notice of Direct Request Proceeding for each tenant to confirm personal service. Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that the tenants have been duly served with the Direct Request Proceeding documents on June 22, 2018, the day it was personally served to them.

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*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on May 29, 2018, and Tenant LO.W. as well as Tenant LE.W. on May 28, 2018, indicating a monthly rent of \$2,600.00, due on the first day of each month for a tenancy commencing on June 01, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 11, 2018 for \$2,600.00 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 June 21, 2018;

- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally handed to Tenant LO.W. at 7:25 p.m. on June 11, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the tenants were duly served with the 10 Day Notice on June 11, 2018.

I find that the tenants were obligated to pay the monthly rent in the amount of \$2,600.00 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 section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, June 21, 2018.

Direct request proceedings are *ex parte* proceedings. In an *ex parte* proceeding, the opposing party is not invited to participate in the hearing or make any submissions. As there is no ability of the tenants to participate, there is a much higher burden placed on landlords in these types of proceedings than in a participatory hearing. This higher burden protects the procedural rights of the excluded party and ensures that the natural justice requirements of the Residential Tenancy Branch are satisfied.

I find that Tenant J.W. has not signed the tenancy agreement, which is a requirement of the direct request process. For this reason the monetary portion of the landlord's application, naming Tenant J.W. as a respondent, is dismissed without leave to reapply.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award against Tenants LO.W. and LE.W. in the amount of \$2,600.00, the amount claimed by the landlord, for unpaid rent owing for June 2018 as of June 19, 2018.

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 section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,600.00 for rent owed for June 2018. The landlord is provided with this Order in the above terms and Tenant LO.W. as well as Tenant LE.W. must be served with **this Order** as soon as possible. Should Tenants LO.W. or LE.W. 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 28, 2018

Residential Tenancy Branch