



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR

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 for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 7, 2018, the landlords sent Tenant L.F. the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that Tenant L.F. is deemed to have been served with the Direct Request Proceeding documents on November 12, 2018, the fifth day after their registered mailing.

The landlords have not provided a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant L.B. and have not established that Tenant L.B. has been served the Notice of Direct Request Proceeding.

Therefore, I will only hear the landlords’ application against Tenant L.F.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenant on February 10, 2018, indicating a monthly rent of \$950.00, due on the first day of each month for a tenancy commencing on March 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated October 26, 2018 for \$1,900.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides 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 on the stated effective vacancy date of November 4, 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 tenants' door at 8:00 p.m. on October 26, 2018; and
- A Monetary Order 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 sections 88 and 90 of the *Act*, I find that Tenant L.F. was deemed served with the 10 Day Notice on October 29, 2018, three days after its posting.

I find that Tenant L.F. was obligated to pay the monthly rent in the amount of \$950.00, as per the tenancy agreement.

I accept the evidence before me that Tenant L.F. 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 Tenant L.F. is 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, November 8, 2018.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order in the amount of \$1,900.00, the amount claimed by the landlords, for unpaid rent owing for September 2018 and October 2018 as of November 6, 2018.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on Tenant L.F. Should Tenant L.F. **and any other occupant** 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 landlords a Monetary Order in the amount of \$1,900.00 for rent owed for September 2018 and October 2018. The landlords are provided with this Order in the above terms and Tenant L.F. must be served with **this Order** as soon as possible. Should Tenant L.F. 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.

I dismiss the landlord's application for a Monetary Order for unpaid rent naming Tenant L.B. as a respondent without leave to reapply.

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: November 13, 2018

Residential Tenancy Branch