



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR FFL

Preliminary Matters

Paragraph 12 (1) (b) of the Residential Tenancy Regulation establishes that a tenancy agreement is required to be “signed and dated by both the landlord and the tenant.”

I find that landlord R.V. has not signed the tenancy agreement. Similarly, I also find that tenant D.C. has not signed the tenancy agreement.

For this reason, I have amended the application to remove landlord R.V. as an applicant and to remove tenant D.C. as a respondent, in accordance with section 64(3)(c) of the *Act*.

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 have submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on November 9, 2018, the landlords sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that each of the tenants is deemed to have been served with the Direct Request Proceeding documents on November 14, 2018, the fifth day after their registered mailing.

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*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The landlords have submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by landlord C.P. and tenant M.P. on April 14, 2018, indicating a monthly rent of \$1,400.00, due on the first day of each month for a tenancy commencing on May 01, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 18, 2018 for \$1,400.00 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 October 28, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted on the tenants' door or other conspicuous place at 3:15 p.m. on October 18, 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 sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice on October 21, 2018, three days after its being posted on the tenants' door or other conspicuous place.

As the Direct Request process is an ex parte proceeding that does not allow for any clarification of the facts, there is a much higher burden placed on landlords in these

types of proceedings than in a participatory hearing. The onus is on the landlords to present evidentiary material that does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding.

I find that tenant M.P. was obligated to pay the monthly rent in the amount of \$1,400.00, as per the tenancy agreement.

I accept the evidence before me that tenant M.P. has failed to pay the rent owed in full within the 5 days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that 5 day period.

Based on the foregoing, I find that tenant M.P. is 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, October 31, 2018.

Therefore, I find that the landlord C.P. is entitled to an Order of Possession and a Monetary Order in the amount of \$1,400.00 against tenant M.P., for unpaid rent owing for October 2018 as of November 5, 2018.

As landlord C.P. has been successful in this application against tenant M.P., I also allow them to recover the \$100.00 filing fee.

Conclusion

I grant an Order of Possession to landlord C.P. effective **two days after service of this Order** on the tenant C.P. Should tenant M.P. 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 landlord C.P. a Monetary Order in the amount of \$1,500.00 for rent owed for October 2018 and for the recovery of the filing fee. Landlord C.P. is provided with this Order in the above terms and tenant M.P. must be served with **this Order** as soon as possible. Should tenant M.P. 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: November 16, 2018

Residential Tenancy Branch