



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

The landlord submitted two signed Proof of Service of the Notice of Direct Request Proceeding forms which declare that on November 21, 2018, the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail. The landlord provided two copies of the Canada Post customer receipts containing the tracking numbers to confirm these mailings. Section 90 of the Act determines that a document served in this manner is deemed to have been received five days after service.

Based on the written submissions of the landlord, and in accordance with sections 89 and 90 of the Act, I find that the tenants have been deemed served with the Direct Request Proceeding documents on November 26, 2018, the fifth day after their registered mailing.

Issues 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 and the tenants on January 8, 2018, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on February 1, 2018 ;

- A Direct Request Worksheet showing the rent owing and paid during the portion of this tenancy in question, on which the landlord sets out its basis for a monetary claim in the amount of \$200.00 for outstanding rent, comprised of the balance of unpaid rent due by November 1, 2018 (\$1,200.00) less payments of \$400.00 on November 4, 2018 and \$600.00 on November 6, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “**Notice**”) dated November 6, 2018 for \$200.00 in unpaid rent due on November 1, 2018 , with a stated effective vacancy date of November 16, 2018 ; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice to the tenants by way of posting it to the door of the rental unit on November 6, 2018 . The Proof of Service form states that the service of the Notice was witnessed and a name and signature for the witness are included on the form.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenants did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenants did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence provided by the landlord. Section 90 of the Act provides that because the Notice was served by posting the Notice to the door of the rental unit, the tenants are deemed to have received the Notice three days after its posting. In accordance with sections 88 and 90 of the Act, I find that the tenants are deemed to have received the Notice on November 9, 2018 , three days after its posting.

I find that the tenants were obligated to pay monthly rent in the amount of \$1,200.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay rental arrears in the amount of \$200.00, comprised of the balance of unpaid rent due by November 1, 2018 (\$1,200.00) less payments of \$400.00 on November 4, 2018 and \$600.00 on November 6, 2018.

I accept the landlord’s undisputed evidence and find that the tenants did not pay the rent owed in full within the five days granted under section 46 (4) of the Act and did not apply to dispute the 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 corrected effective date of the Notice, November 19, 2018 .

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order of \$200.00 for unpaid rent owed by November 1, 2018 as claimed on the landlord's Application for Dispute Resolution by Direct Request.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. Should the tenants 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 of the Act, I find that the landlord is entitled to a monetary Order in the amount of \$200.00 for unpaid rent. The landlord is provided with these Orders in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 27, 2018

Residential Tenancy Branch