



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Waldorf Manor Apts
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, OPRM-DR

Introduction

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on November 21, 2018, the Landlord sent the Tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The Landlord provided a tracking number to confirm the delivery of this registered mail. Based on the written submissions of the Landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant was deemed served with the Direct Request Proceeding documents on November 26, 2018, the fifth day after the registered mailing.

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 the landlord and the tenant, indicating a monthly rent of \$900.00, due on the first day of each month for a tenancy commencing on February 01, 2016;
- Copies of Rent Increase Notices for 2017 and 2018, which raised the rent to \$967.00 monthly, as of November 1, 2018;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice), dated November 10, 2018, for \$967.00 in unpaid rent due on November 01, 2018. 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 10, 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 Tenant's door at 2 p.m. on November 10, 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 Tenant was deemed served with the 10 Day Notice on November 13, 2018, three days after its posting.

I find that the Tenant was obligated to pay the monthly rent in the amount of \$967.00, as per the tenancy agreement and rent increases. I accept the evidence before me that the Tenant 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 Tenant 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 23, 2018.

Therefore, I find that the Landlord is entitled to an Order of Possession for unpaid rent based on the November 10, 2018, 10 Day Notice issued to the Tenant for unpaid rent owed by November 1, 2018, and a monetary award in the amount of \$967.00, the amount claimed by the Landlord, for unpaid rent owing for November 2018 as of November 21, 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. Should the Tenant 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 \$1,067.00 for rent owed for November 2018 and for the recovery of the filing fee for this application. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant 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 30, 2018

Residential Tenancy Branch