



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL OPRM-DR

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 landlords submitted one signed and witnessed Proof of Service of the Notice of Direct Request Proceeding form which declares that on November 23, 2018, the landlords served tenant G.N. the Notice of Direct Request Proceeding in person. The personal service was confirmed as the tenant “GN” acknowledged receipt of the Notice of Direct Request Proceeding by signing the Proof of Service form. Based on the written submissions of the landlord, and in accordance with section 89 of the *Act*, I find that the tenant “GN” has been duly served with the Direct Request Proceeding documents on November 23, 2018

The landlords also submitted two Proofs of Service of the Notice of Direct Request Proceeding forms which declare that on November 23, 2018, the landlords sent tenants N.F. and R.M. the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided two copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that each the tenants N.F. and R.M. are deemed to have been served with the Direct Request Proceeding documents on November 28, 2018, the fifth day after their mailings.

Although an individual identified as “ZL” is included on the application for dispute resolution as an applicant landlord, “ZL” is not listed as a landlord on the tenancy agreement. As neither the name nor signature for “ZL” appears on the tenancy agreement to demonstrate that “ZL” entered into a tenancy agreement with the tenant, I will consider the application with “FC” being the sole landlord, and amend the application to exclude “ZL” as a party to this dispute.

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 landlords and the tenants on April 28, 2018, indicating a monthly rent of \$3,000.00, due on the first day of the month for a tenancy commencing on May 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 5, 2018, for \$1,000.00 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 November 15, 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 the tenants at 5:00(a.m. or p.m. not specified) on November 5, 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 November 5, 2018.

I find that the tenants were obligated to pay the monthly rent in the amount of \$3,000.00 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, November 15, 2018.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary award in the amount of \$1,000.00, the amount claimed by the landlords, for unpaid rent owing for November 2018 as of November 15, 2018.

As the landlords have been successful in this application, I also allow them to recover their \$100.00 filing fee.

Conclusion

I grant an Order of Possession to the landlords 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 landlords a Monetary Order in the amount of \$1,100.00 for rent owed for November 2018 as well as for the recovery of the filing fee. The landlords are provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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: December 03, 2018

Residential Tenancy Branch