



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BENCHMARK RENOVATION LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 1, 2018, the landlord personally served Tenant A.L. the Notice of Direct Request Proceeding. The landlord had Tenant A.L. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89 of the *Act*, I find that Tenant A.L. has been duly served with the Direct Request Proceeding documents on December 1, 2018.

The landlord submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 3, 2018, the landlord personally served Tenant W.B. the Notice of Direct Request Proceeding. The landlord had Tenant W.B. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89 of the *Act*, I find that Tenant W.B. has been duly served with the Direct Request Proceeding documents on December 3, 2018.

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*?

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 February 19, 2016, indicating a monthly rent of \$1,300.00, due on the first day of each month for a tenancy commencing on February 19, 2016;
- A copy of a Notice of Rent Increase form showing the rent being increased from \$1,300.00 to the current monthly rent amount of \$1,348.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 17, 2018, for \$2,665.00 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 31, 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 4:09 pm on October 17, 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 20, 2018, three days after its posting.

I find that the tenants were obligated to pay the monthly rent in the amount of \$1,348.00, as per the tenancy agreement and the Notice of Rent Increase.

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, October 31, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of November 28, 2018.

Conclusion

I grant an Order of Possession to the landlord 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.

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 10, 2018

Residential Tenancy Branch