



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN TEAM REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPRM-DR, FFL

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.

Preliminary Matters

In this type of matter, the landlord must prove they served the tenants with the Notice of Direct Request proceeding with all the required inclusions as indicated on the Notice as per sections 89 of the *Act* which permits service by sending a copy by registered mail to the address at which the person resides or, by sending a copy by registered mail to a forwarding address provided by the tenant.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on December 3, 2018, the landlord sent Tenant M.M. and Tenant D.M. the Notices of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy 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 Tenant M.M. and Tenant D.M. are deemed to have been served with the Direct Request Proceeding documents on December 8, 2018, the fifth day after their registered mailing.

The landlord also submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on December 3, 2018, the landlord sent Tenant K.M. and Tenant G.T. the Notices of Direct Request Proceeding by registered mail to an address that is not the rental unit. There is no indication as to whether Tenant K.M. or

Tenant G.T. reside at this alternative address or whether they have provided the landlord this address for service of documents.

I find that I am not able to confirm service of the Notice of Direct Request Proceeding documents to Tenant K.M. and Tenant G.T. For this reason, I will only consider the portion of the landlord's application naming Tenant M.M. and Tenant D.M. as respondents.

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 Tenant M.M. on January 16, 2018, indicating a monthly rent of \$2,900.00, due on the first day of each month for a tenancy commencing on February 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 18, 2018, for \$1,800.00 in unpaid rent. The 10 Day Notice provides that Tenant M.M. 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 30, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to Tenant M.M. at 1:00 pm on November 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 section 88 of the *Act*, I find that Tenant M.M. and Tenant D.M. were duly served with the 10 Day Notice on November 18, 2018.

Section 12(1)(b) of the Residential Tenancy Regulation requires a tenancy agreement to be signed and dated by the landlord and the tenant. I find that the tenancy agreement submitted by the landlord is not signed by Tenant D.M., which is a requirement of the Direct Request Process. For this reason, the monetary portion of the landlord's application naming Tenant D.M. as a respondent is dismissed without leave to reapply.

However, I find that Tenant M.M. was obligated to pay the monthly rent in the amount of \$2,900.00, as per the tenancy agreement.

I accept the evidence before me that Tenant M.M. has 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 Tenant M.M. 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, November 30, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$1,800.00, the amount claimed by the landlord, for unpaid rent owing for November 2018 as of November 28, 2018.

As the landlord was partially 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 Tenant M.M. Should Tenant M.M. **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 sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1,900.00 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

Tenant M.M. must be served with **this Order** as soon as possible. Should Tenant M.M. 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.

I dismiss the monetary portion of the landlord's application naming Tenant D.M., Tenant G.T., and Tenant K.M. as respondents without leave to reapply.

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