



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 landlords for an Order of Possession based on unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 24, 2019, the landlords personally served the tenant the Notice of Direct Request Proceeding. The landlords had 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 landlords and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on February 24, 2019.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on January 29, 2019, indicating a monthly rent of \$1,150.00, due on the first day of each month for a tenancy commencing on January 30, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 9, 2019, for \$475.00 in unpaid rent. 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 February 18, 2019;

- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 7:10 (a.m. or p.m. not indicated) on February 9, 2019; 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 February 12, 2019, three days after its posting.

Section 68 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the address from which the tenant must vacate does not match with the tenant's address for service of documents on the 10 Day Notice, the tenancy agreement, or any of the other documents submitted. I further find that the tenant is not prejudiced by amending the address as they are aware of what their correct address is on the signed tenancy agreement. For this reason I have amended the address on the 10 Day Notice from which the tenant must vacate to reflect the address on the tenancy agreement.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,150.00, as per the tenancy agreement.

I accept the evidence before me that the tenant 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 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, February 22, 2019.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent owing for February 2019 as of February 20, 2019.

Conclusion

I grant an Order of Possession to the landlords 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.

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: February 26, 2019

Residential Tenancy Branch