



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0697418 BC. LTD DBA HOTEL
BOURBON 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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 27, 2019, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant will be deemed to have been served with the Direct Request Proceeding documents on May 2, 2019, the fifth day after their 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*?

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the

landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

I note that on March 7, 2019, the tenant submitted an Application for Dispute Resolution to request to cancel a 10 Day Notice issued on March 2, 2019. A hearing took place and the Arbitrator determined that the 10 Day Notice issued on March 2, 2019 was valid and that the tenancy has ended.

The landlord submitted an Application for Dispute Resolution requesting an Order of Possession based on a 10 Day Notice issued on April 2, 2019. I find that I cannot issue an Order of Possession for a tenancy that has already ended. For this reason, the landlord's application for an Order of Possession is dismissed without leave to reapply.

For the same reason indicated above the landlord's application for a Monetary Order for unpaid rent owing for April 2019 is dismissed with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession for unpaid rent based on the 10 Day Notice issued on April 2, 2019 without leave to reapply.

I dismiss the landlord's application for a Monetary Order for unpaid rent owing for April 2019 with leave to reapply.

I dismiss the landlord's application to recover the filing fee paid for this application 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: April 30, 2019

Residential Tenancy Branch