Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PERFORMANCE POWER PLAY
REALTY 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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on April 25, 2019, the landlord sent each of the tenants the Notice 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 in fact took place on April 24, 2019. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants are deemed to have been served with the Direct Request Proceeding documents on April 29, 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*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by a landlord who is not the applicant and the tenants, indicating a monthly rent of $2,200.00, due on the first day of each month for a tenancy commencing on March 15, 2019;

- A copy of a Property Management Agreement showing the assignment of management responsibilities from the owner, who is named on the residential tenancy agreement, to the agent who is applying for dispute resolution;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 10, 2019, for $3,300.00 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 April 20, 2019;

- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenants at 2:30 (a.m. or p.m. not indicated) on April 10, 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 section 88 of the *Act,* I find that the tenants were duly served with the 10 Day Notice on April 10, 2019.

I find that the tenants were obligated to pay the monthly rent in the amount of $2,200.00, 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, April 20, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent as of April 16, 2019.

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: April 30, 2019

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Residential Tenancy Branch