



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DORSET REALY GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FFL

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), via the documentary submissions only of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 1, 2019, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord’s application, by registered mail. 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, I find that the tenant has been served with the Direct Request Proceeding documents as required by section 89(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit?

Is the landlord entitled to a monetary order for unpaid rent and for recovery of the filing fee?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on March 12, 2012, indicating a monthly rent of \$810.00 due on the first day of each month, beginning on April 1, 2012;
- Copies of separate Notices of Rent Increase, showing the monthly rent was increased every year since the tenancy began, with the present monthly rent being in the amount of \$936.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent, dated April 8, 2019, with a stated effective move out date of April 21, 2019, listing \$1,895.00 in unpaid rent due as of April 1, 2019; and
- A signed and witnessed Proof of Service showing that the tenant was served the Notice by attaching it to the tenant's door on April 9, 2019.

The Notice stated that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

I have no evidence before me that the tenant paid the rent listed or filed an application for dispute resolution to dispute the Notice.

Analysis

The Notice is not effective earlier than ten days after the date the tenant received it. Under section 90 of the Act, a document served by attachment to the door or other conspicuous place is deemed received three days later. In this case, the Notice was attached on April 9, 2019, and deemed received on April 12, 2019. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the listed effective date of April 21, 2019, on the Notice, is changed to April 22, 2019.

I have reviewed the landlord's documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities as submitted by the landlord.

I accept the landlord's documentary evidence that the tenant failed to pay the rent owed in full within the 5 days granted under section 46(4) of the Act.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the landlord is entitled to an order of possession for the

rental unit due to unpaid rent and a monetary award for unpaid rent in the amount of \$1,895.00, as claimed in their application.

Due to their successful application, I find the landlord is entitled to recover their filing fee in the amount \$100.00.

Conclusion

Pursuant to section 55(4)(b) of the Act, I grant the landlord an order of possession for the rental unit effective two days after service on the tenant, which is enclosed with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order of possession. The tenant is advised that costs of such enforcement may be recovered from the tenant.

I grant the landlord a monetary order in the amount of \$1,995.00, pursuant to sections 67 and 72 of the Act, comprised of rent owed and the filing fee. This order is a legally binding, final order, and should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recovered from the tenant.

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: May 7, 2019

Residential Tenancy Branch