



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 June 7, 2019, the landlords personally served Tenant R.S. the Notice of Direct Request Proceeding. The landlords had Tenant R.S. and 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 Tenant R.S. has been duly served with the Direct Request Proceeding documents on June 7, 2019.

The landlords have not provided a copy of a Proof of Service of the Notice of Direct Request Proceeding to establish service of the Notice of Direct Request Proceeding documents to Tenant D.H. For this reason, I will only proceed with the portion of the landlords' application naming Tenant R.S. as a respondent.

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

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

The landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenants on August 1, 2008, indicating a monthly rent of \$2,250.00, due on the first day of each month for a tenancy commencing on August 1, 2008;
- A copy of nine Notice of Rent Increase forms showing the rent being increased to the current monthly rent amount of \$2,600.00;
- A copy of five 10 Day Notices to End Tenancy for Unpaid Rent (the 10 Day Notices) dated May 24, 2019, for \$200.00 in unpaid rent owing for January 2019, \$2,600.00 in unpaid rent owing for February 2019, \$2,600.00 in unpaid rent owing for March 2019, \$2,600.00 in unpaid rent owing for April 2019, and \$2,600.00 in unpaid rent owing for May 2019. The 10 Day Notices provide 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 the 10 Day Notices, June 7, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notices were personally served to Tenant R.S. at 7:56 pm on May 24, 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 Tenant R.S. was duly served with the 10 Day Notices on May 24, 2019.

I find that Tenant R.S. was obligated to pay the monthly rent in the amount of \$2,600.00, as per the tenancy agreement and the Notices of Rent Increase.

I accept the evidence before me that Tenant R.S. 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 any of the 10 Day Notices within that five day period.

Based on the foregoing, I find that Tenant R.S. 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 Notices, June 7, 2019.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent as of June 7, 2019.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on Tenant R.S. Should Tenant R.S. **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.

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: June 10, 2019

Residential Tenancy Branch