



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

Preliminary Matters

I note that Tenant S.H.'s name on the Application for Dispute Resolution submitted by the landlord is slightly different than Tenant S.H.'s name as it appears on the tenancy agreement, the 10 Day Notice, and all other documents submitted with the Application. The landlords have also submitted a note explaining that they made a typing error when completing the Application online.

Section 64(3)(c) of the *Act* allows me to amend the application to match the tenancy agreement and the 10 Day Notice, which I have done as I find it reasonable to do so in the circumstances.

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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on June 21, 2019, the landlords posted the Notices of Direct Request Proceeding to the door of the rental unit. The landlords had a witness sign the Proofs of Service of the Notices of Direct Request Proceeding to confirm this service. Based on the written submissions of the landlords and in accordance with sections 89(2) and 90 of the *Act*, I find that the tenants are deemed to have been served with the Direct Request Proceeding documents on June 24, 2019, the third day after their posting.

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 relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenants on December 29, 2018, indicating a monthly rent of \$2,000.00, due on the first day of each month for a tenancy commencing on January 1, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated May 29, 2019, for \$2,000.00 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 June 8, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was placed in the tenants' mailbox or mail slot at 4:20 pm on May 29, 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 tenants were deemed served with the 10 Day Notice on June 1, 2019, three days after it was placed in the mailbox or mail slot.

I find that the tenants were obligated to pay the monthly rent in the amount of \$2,000.00, 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 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, June 11, 2019.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent as of June 12, 2019.

Conclusion

I grant an Order of Possession to the landlords 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: June 25, 2019

Residential Tenancy Branch