



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 two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on July 12, 2019, the landlords sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post receipt containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlords 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 July 17, 2019, the fifth day after their registered mailing.

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 the landlords and the tenants on November 23, 2018, indicating a monthly rent of \$2,100.00, due on the first day of each month for a tenancy commencing on December 1, 2018;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 17, 2019, for \$1,500.00 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 July 1, 2019;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenants by registered mail on June 19, 2019;
- A copy of a Canada Post Tracking Report containing the Tracking Number to confirm that the 10 Day Notice was in fact sent to the tenants on June 17, 2019. The Tracking Report shows that Tenant K.C. signed for receipt of the package on June 19, 2019; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Direct Request Worksheet noted that, of the \$1,500.00 identified as owing in the 10 Day Notice, \$1,100.00 was paid on June 26, 2019 and \$400.00 was paid on June 27, 2019.

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 June 19, 2019, the day Tenant K.C. picked up and signed for the registered mailing.

I find that the tenants were obligated to pay the monthly rent in the amount of \$2,100.00, as per the tenancy agreement.

I accept the evidence before me that the tenants have failed to pay the full amount indicated on the 10 Day Notice by June 24, 2019, 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, July 1, 2019.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent as of July 2, 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: July 18, 2019

Residential Tenancy Branch