



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

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 and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 19, 2019, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had 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 landlord and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on July 19, 2019.

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*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 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 landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on July 1, 2018 and the tenant on August 1, 2018, indicating a monthly rent of

\$800.00, due on the first day of each month for a tenancy commencing on July 1, 2018;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 27, 2019, for \$600.00 in unpaid rent. The 10 Day Notice provides that the tenant 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 9, 2019;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenant by registered mail at 10:15 (a.m. or p.m. not indicated) on June 28, 2019;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the 10 Day Notice was sent to the tenant on June 28, 2019;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A statement from the landlord indicating that, after being served the Notice of Direct Request Proceeding on July 19, 2019, the tenant paid \$600.00 for the outstanding rent owing for June 2019, \$800.00 to allow the tenant to stay for the month of July 2019, and \$100.00 to reimburse the landlord's filing fee.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on July 3, 2019, five days after its registered mailing.

I find that the tenant was obligated to pay the monthly rent in the amount of \$800.00, as per the tenancy agreement.

I accept the evidence before me that the tenant has failed to pay the rent owed in full by July 8, 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 tenant is 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, July 13, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent as of July 19, 2019.

The landlord has indicated that the tenant has made payments for the rent owing for June 2019 and to reimburse the landlord for the cost of filing their claim. For this reason,

the landlord's application for a Monetary Order for unpaid rent owing for June 2019 and for the recovery of the filing fee paid for this application is dismissed without leave to reapply.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I dismiss the landlord's application for a Monetary Order for unpaid rent owing for June 2019 and for the recovery of the filing fee paid for this application without leave to reapply.

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 29, 2019

Residential Tenancy Branch