



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 Landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declared that on September 21, 2019, the Landlords personally served the Tenant by leaving the Notice with the Tenant’s mother, an adult who was present with the Tenant at the rental unit. The Landlords submitted that the Tenant was present; however, refused to sign the Proof of Service and instead, his mother (C.N.R.) signed the document. Based on the written submission of the Landlords and in accordance with section 89(2) of the *Act*, I find that the Tenant has been duly served with the Direct Request Proceeding documents on September 21, 2019.

Issues to be Decided

Are the Landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the Landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the Landlords 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 relevant to the issues and findings in this matter are described in this Decision.

The Landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the Landlords and the Tenant on May 8, 2018, indicating a monthly rent of \$2,400.00, due on the first day of each month for a tenancy commencing on June 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”) dated September 3, 2019, for \$1,120.00 in unpaid rent. The 10 Day Notice provided 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 September 13, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicated that the 10 Day Notice was left in the mail slot at the Tenant’s address on September 3, 2019; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.
- A Notice of Rent Increase that provided the Tenant notice that the rent would be increased from \$2,400.00 to \$2,460.00 per month as of August 1, 2019.

Analysis

I have reviewed all the 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 September 6, 2019, three days after its posting.

I find that the Tenant was obligated to pay the monthly rent in the amount of \$2,460.00, as per the tenancy agreement and the Notice of Rent Increase.

I accept the evidence before me that the Tenant 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 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) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, that being September 13, 2019.

Therefore, I find that the Landlords are entitled to an Order of Possession and a monetary award in the amount of \$1,120.00, the amount claimed by the Landlords, for unpaid rent owing for September 2019.

As the Landlords were successful in this application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the Landlords 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.

Pursuant to sections 67 and 72 of the *Act*, I grant the Landlords a Monetary Order in the amount of \$1,220.00 for rent owed and for the recovery of the filing fee for this application. The Landlords are provided with this Monetary Order in the above terms and the Tenant must be served with **this Order as soon as possible**. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: October 02, 2019

Residential Tenancy Branch