



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 for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declared that on September 26, 2019, the Landlord personally served the Tenants the Notice of Direct Request Proceeding by handing them the documents and having the Tenants sign for them. Based on the written submissions of the Landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants have been served with the Direct Request Proceeding documents on September 26, 2019.

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

The Landlord submitted the following evidentiary material:

- A copy of a residential Tenancy Agreement which was signed by the Landlord and the Tenants on September 1, 2019, indicating a monthly rent of \$1,400.00, due on the first day of each month for a tenancy commencing on September 1, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”) dated September 14, 2019, for \$700.00 in unpaid rent. The 10 Day Notice provided 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 September 24, 2019;
- A copy of a Proof of Service Notice to End Tenancy form which indicated that the 10 Day Notice was presented to, accepted by and signed by the Tenants at 2:00 p.m. on September 14, 2019;
- A Direct Request Worksheet showing the balance of the rent owing and paid during the relevant portion of this tenancy; and
- Receipts indicating that \$700.00 of the rent was paid and a \$700.00 security deposit was paid to the Landlord on September 1, 2019.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the Tenants were served with the 10 Day Notice on September 14, 2019.

I find that the Tenants were obligated to pay the monthly rent in the amount of \$1,400.00, 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 section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, September 24, 2019.

Therefore, I find that the Landlord is entitled to an Order of Possession and a monetary award in the amount of \$700.00, the amount claimed by the Landlord, for the balance of unpaid rent owing for September 2019.

As the Landlord was successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. Should the Tenants 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 Landlord a Monetary Order in the amount of \$800.00 for the balance of the rent owed for September 2019 and for the recovery of the filing fee for this application. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Monetary Order as soon as possible. Should the Tenants 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 09, 2019

Residential Tenancy Branch