



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This non-participatory matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), via the documentary evidence only of the landlord. This matter dealt with an application for dispute resolution by the landlord for an order of possession of the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on September 27, 2019, the landlord sent the listed tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm this mailing.

Based on the written evidence of the landlord, I accept the tenants have been served with the Direct Request Proceeding documents as required by section 89(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit?

Is the landlord entitled to a monetary order for unpaid rent and for recovery of the filing fee?

Background and Evidence

The landlord submitted the following, additional documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on June 21, 2019, listing a monthly rent of \$2,250.00, due on the first day of each month for a tenancy commencing on July 15, 2019;
- A copy of the Notice dated September 16, 2019, listing unpaid rent of \$1,007.07 as of September 13, 2019. The 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 September 29, 2019;

- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the Notice was posted to the tenants' door at 2:36 p.m. on September 16, 2019; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

I have reviewed all the landlord's documentary evidence and in accordance with sections 88 and 90 of the Act, I find that the tenants were deemed served with the Notice on September 10, 2019, three days after it was attached to the tenants' door.

I find that the tenants were obligated by the written tenancy agreement to pay the monthly rent of \$2,250.00.

I accept the evidence before me that the tenants failed to pay the rent owed in full within the five days granted under section 46(4) of the Act and did not apply to dispute the Notice within that five day period.

Based on the foregoing, I find that the tenants are conclusively presumed under sections 46(5) of the Act to have accepted that the tenancy ended on the changed effective date of the Notice.

Therefore, I find that the landlord is entitled to an Order of Possession of the rental unit and a monetary award in the amount of \$1,007.07, the amount claimed by the landlord, for unpaid rent owing as of September 1, 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.

Therefore, I grant the landlord an order of possession of the rental unit effective 2 days after service of the order upon the tenant.

Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement, such as bailiff fees, are recoverable from the tenants.

I also grant the landlord a final, legally binding monetary order pursuant to section 67 and 72 of the Act for the amount of \$1,107.07, comprised of unpaid rent of \$1,107.07 and the filing fee of \$100.00.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Conclusion

The landlord's application under the Direct Request Proceeding for an order of possession of the rental unit and a monetary order has been granted.

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 11, 2019

Residential Tenancy Branch