



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 landlord for an Order of Possession based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding form which declares that on October 08, 2019, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Section 90 of the Act determines that a document served in this manner is deemed to have been received five days after service.

Based on the written submissions of the landlord, and in accordance with sections 89 and 90 of the Act, I find that the tenant has been deemed served with the Direct Request Proceeding documents on October 13, 2019, the fifth day after their registered mailing.

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?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlords and the tenant on February 1, 2018, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on February 01, 2018;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 05, 2019 for \$1,200.00 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 September 25, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 9.37. p.m. on September 05, 2019.
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

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 September 08, 2019, three days after its posting.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,200.00, as per the tenancy agreement. I accept the evidence before me that the tenant has failed to pay the cumulative balance of rental arrears due by September 01, 2019, in the amount of \$10,800.00, comprised of the balance of unpaid rent owed for the months encompassing the period of January 2019 to September 2019.

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) and 53(2) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice, September 25, 2019.

Therefore, I find that the landlord is entitled to an Order of Possession based on the September 05, 2019 10 Day Notice served to the tenant for unpaid rent owed by September 01, 2019, as claimed on the landlord's Application for Dispute Resolution by Direct Request.

Conclusion

I grant an Order of Possession to the landlord 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: October 28, 2019

Residential Tenancy Branch