



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WILLOW POINT REALTY
and [tenant name suppressed to protect privacy]

INTERIM 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 February 21, 2020, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on February 26, 2020, 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*?

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 and the tenant on August 29, 2019, indicating a monthly rent of \$2,900.00, 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 February 6, 2020, for \$5,800.00 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 February 16, 2020;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was handed to an adult who apparently resides with the tenant at 10:15 am on February 6, 2020; and
- 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 section 88 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on February 6, 2020.

Section 46(4) (c) of the *Act*, regarding a landlord's notice for non-payment of rent, states that "within 5 days after receiving a notice under this section, the tenant may dispute the notice by making an application for dispute resolution."

I note that on February 11, 2020, the tenant submitted an Application for Dispute Resolution requesting to cancel the 10 Day Notice issued on February 6, 2020.

As the tenant has filed to dispute the 10 Day Notice within the 5 days granted under section 46 of the *Act*, I find that this matter cannot proceed through the Direct Request process. The landlord's application is to be adjourned to a participatory hearing, on the same date and time as the tenant's scheduled hearing, April 2, 2020 at 9:30 am.

Conclusion

I order that the Direct Request Proceeding be reconvened in accordance with section 74 of the *Act* to be heard on the same date and time as the tenant's application, **April 2, 2020 at 9:30 am**. I find that a participatory hearing to be conducted by an arbitrator appointed under the *Act* is required in order to determine the details of the landlords' application.

Notices of Reconvened Hearing are enclosed with this interim decision. The applicant must serve the Notice of Reconvened Hearing, the interim decision, and

all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 89 of the *Act*.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing. For more information see our website at: gov.bc.ca/landlordtenant.

If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Elsewhere in BC: 1-800-665-8779

This interim 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: February 27, 2020

Residential Tenancy Branch