



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WILLIAMS LAKE SOCIAL HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, OPRM-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 and a Monetary Order.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on September 17, 2020, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had the tenant and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on September 17, 2020.

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*?

Background and Evidence

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 May 4, 2020, indicating a monthly rent of \$910.00, due on the first day of each month for a tenancy commencing on May 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 24, 2020, for \$1,380.00 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 September 2, 2020;

- 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 on August 24, 2020; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

Policy Guideline #52 provides the following information pertaining to the *COVID-19 Related Measures Act (the C-19 Act)*:

"Affected rent means rent that becomes due to be paid by a tenant in accordance with a tenancy agreement during the "specified period" between March 18, 2020 and August 17, 2020"

The guideline goes on to state:

"A landlord cannot pursue an eviction for unpaid affected rent unless they have already given a valid repayment plan or there is a valid prior agreement still in effect."

The landlord has indicated on their Application for Dispute Resolution by Direct Request that the amount owing before August 17, 2020 was \$1,380.00. I also find that the 10 Day Notice lists \$1,380.00 for unpaid rent that was due on August 1, 2020.

I find that the rent listed on the 10 Day Notice is considered affected rent. I also find that the landlord has not submitted a copy of a repayment plan or a valid prior agreement to demonstrate that they have the authority to issue a 10 Day Notice for the affected rent.

For this reason, I find that the landlord has not complied with the provisions of Policy Guideline #52 and the *C19 Act* regarding the 10 Day Notice issued to the tenant.

Therefore, I dismiss the landlord's application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated August 24, 2020, without leave to reapply.

The 10 Day Notice dated August 24, 2020, is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice, I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

Conclusion

The landlord's application for an Order of Possession based on the 10 Day Notice dated August 24, 2020 is dismissed, without leave to reapply.

The 10 Day Notice dated August 24, 2020, is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

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: September 18, 2020

Residential Tenancy Branch