



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 filed by the Landlords for an order of possession, a monetary order, and to recover the filing fee.

The Landlords submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that on December 3, 2020, the Landlords sent the Tenants the Notice of Direct Request Proceeding documents to the rental unit by registered mail. The Landlords provided copies of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the Landlords and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Direct Request Proceeding documents on December 8, 2020, the fifth day after their registered mailing.

Issues to be Decided

1. Are the Landlords entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. Are the Landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?
3. Are the Landlords 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 Landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by S.B. and the Tenants on December 5, 2019, indicating monthly rent of \$2,150.00, due on the first day of each month for a tenancy commencing on January 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 8, 2020 (the “10 Day Notice”), indicating \$1,350.00 in unpaid rent, plus \$500.00 relating to an unpaid security deposit. 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 November 18, 2020;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was hand delivered to R.F. at 1:00 p.m. on November 8, 2020; and
- A Direct Request Worksheet.

Analysis

I have reviewed all documentary evidence and I find that the Tenants were obligated to pay the monthly rent in the amount of \$2,150.00, as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenants were served with the 10 Day Notice in person on November 8, 2020.

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 dispute the 10 Day Notice within that five-day period.

Based on the foregoing, I find that the Tenants are 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, November 18, 2020.

Therefore, I find that the Landlords are entitled to an order of possession for unpaid rent. The order of possession will be effective two days after it is served on the Tenants.

With respect to the Landlords' request for a monetary order for unpaid rent, I note that the amount of outstanding rent indicated on the 10 Day Notice (\$650.00 + \$100.00 + \$600.00 = \$1,350.00) does not match the amount of rent being claimed on the Direct Request Worksheet. Indeed, the Direct Request Worksheet does not provide a clear breakdown of the Landlords' claim. I also note the Landlords appear to be making a claim for an unpaid pet damage deposit, a curious request in light of the Landlords' apparent desire to end the tenancy. Considering these inconsistencies, I find I am unable to determine the precise amount of rent owing. As a result, I order that the Landlords' request for a monetary order for unpaid rent is dismissed with leave to reapply.

As the Landlords were partially successful, I find that they are entitled to recover the \$100.00 filing fee paid to make the Application. I grant the Landlords a monetary order in the amount of \$100.00 in recovery of the filing fee.

Conclusion

The Landlords are granted an order of possession which will be effective two days after service on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlords are granted a monetary order in the amount of \$100.00 in recovery of the filing fee. The monetary order may be filed in and enforced as an order of the Provincial 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: December 21, 2020

Residential Tenancy Branch