



Dispute Resolution Services

Page: 1

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 by the Landlord for an order of possession, a monetary order, and to recover the filing fee paid to make the application.

The Landlord submitted a signed Proof of Service - Notice of Direct Request Proceeding which declares that on December 4, 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 received the Direct Request Proceeding documents on December 9, 2020, five days after they were mailed.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. Is the Landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?
3. 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 December 31, 2019, indicating a monthly rent of \$1,900.00, due on the first day of each month for a tenancy commencing on January 1, 2020;
- A copy of a Repayment Plan dated September 11, 2020, in effect from November 1, 2020 to July 31, 2021, indicating a monthly payment of \$866.67.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated November 6, 2020, for \$2,766.67 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 November 21, 2020;
- A copy of a Proof of Service - Notice to End Tenancy form and Canada Post Customer Receipt containing the Tracking Number to confirm this mailing both of which indicate that the 10 Day Notice was sent to the Tenant by registered mail on November 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 I find that the Tenant was obligated to pay the monthly rent in the amount of \$2,766.67, as per the tenancy agreement and the Repayment Plan.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenant is deemed to have received the 10 Day Notice on November 11, 2020, five days after it was sent to the Tenant by registered mail.

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 corrected effective date of the 10 Day Notice, November 21, 2020.

Therefore, I find that the Landlord is entitled to an order of possession which will be effective two days after it is served on the Tenant.

I also find the Landlord is entitled to a monetary award in the amount of \$2,766.67 for unpaid rent due on November 1, 2020.

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.

Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. The order of possession may be filed in and enforced as an Order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order for unpaid rent in the amount of \$2,866.67. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 22, 2020

Residential Tenancy Branch