



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST 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 Landlords for an order of possession and a monetary order based on unpaid rent, and an order granting recovery of the filing fee.

The Landlords submitted a signed Proof of Service - Notice of Direct Request Proceeding which declares that on November 30, 2020, the Landlords sent the Tenant the Notice of Direct Request Proceeding documents by registered mail to the rental unit. The Landlords provided a copy of the Canada Post 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 the Tenant is deemed to have received these documents on December 5, 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 signed by the Landlords and the Tenant on May 15, 2018, indicating a monthly rent of \$1,150.00, due on the first day of each month, for a tenancy commencing on June 1, 2018;
- A copy of a notice of rent increase dated February 25, 2019 and effective June 1, 2019, increasing rent to \$1,175.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 10, 2020 (the “10 Day Notice”), for \$1,225.00 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 November 20, 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 November 10, 2020; and
- A Direct Request Worksheet and supporting document 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 \$1,175.00, as per the tenancy agreement, plus a monthly payment of \$50.00 as part of a signed rent repayment plan in effect from October 1, 2020 to July 31, 2021.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenant was deemed to have received the 10 Day Notice on November 13, 2020, three days after it was posted on the Tenant’s door.

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 November 23, 2020, the corrected effective date of the 10 Day Notice.

Therefore, I find the Landlords are entitled to an order of possession which will be effective two days after it is served on the Tenant. I also find the Landlords are entitled to a monetary award in the amount of \$1,225.00 (\$1,175.00 + \$50.00) for unpaid rent.

As the Landlords have been successful, I find they are also entitled to a monetary award in the amount of \$100.00 in recovery of the filing fee paid to make the Application.

Conclusion

The Landlords are 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 and enforced as an order of the Supreme Court of British Columbia.

The Landlords are granted a monetary order in the amount of \$1,325.00 (\$1,225.00 + \$100.00) for rent due on November 1, 2020 and for the recovery of the filing fee. The monetary order must be served on the Tenant. 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 17, 2020