



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-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 filed by the Landlords for an order of possession for unpaid rent.

The Landlords submitted a signed Proof of Service Notice of Direct Request Proceeding document which declares that the Landlords served each Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on April 29, 2021. Canada Post receipts which included the tracking numbers were submitted in support. Pursuant to section 89 and 90 of the *Act*, I find these documents are deemed to have been received on May 4, 2021, five days after they were mailed.

Issue to be Decided

Are the Landlords entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 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 the Landlords on February 13, 2021 and by the Tenants on February 14, 2021, indicating a monthly rent in the amount of \$1,400.00 due on the first day of each month, for a tenancy commencing on February 15, 2021;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 3, 2021 for \$1,300.00 in unpaid rent (the “10 Day Notice”). 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 April 13, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was served on the Tenants in person on April 3, 2021, which service was witnessed by R.A.; and
- A copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

Analysis

I have reviewed all documentary evidence and I find that the Tenants were obligated to pay monthly rent in the amount of \$1,400.00.

In accordance with sections 88 and 90 of the *Act*, I find that the Tenants were served with and received the 10 Day Notice on April 3, 2021.

I accept the evidence before me that the Tenants failed to pay the rent owed in full within the five days after receipt of the 10 Day Notice 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 April 13, 2021, the 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 Tenants.

Conclusion

The Landlords are granted an order of possession which will be effective two days after it is served on the Tenants. The order of possession must be served on the Tenants. The order of possession may be filed and enforced as an order of the Supreme 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: May 12, 2021

Residential Tenancy Branch