



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 May 1, 2021, the landlord personally served Tenant R.W. the Notice of Direct Request Proceeding. The landlord had Tenant R.W. sign the Proof of Service Notice of Direct Request Proceeding to confirm personal service. Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that Tenant R.W. has been duly served with the Direct Request Proceeding documents on May 1, 2021.

The landlord has not submitted a copy of a Proof of Service Notice of Direct Request Proceeding to establish the Notice of Direct Request Proceeding documents were served to Tenant L.C. For this reason, I will only proceed with the portion of the landlord's application naming Tenant R.W. as a respondent.

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 Tenant R.W. on July 18, 2020, indicating a monthly rent of \$1,680.00, due on the first day of each month for a tenancy commencing on August 1, 2020

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 9, 2021, for \$5,460.00 in unpaid rent. The 10 Day Notice provides that Tenant R.W. 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 20, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to Tenant R.W.'s door at 12:48 pm on April 9, 2021
- 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 Tenant R.W. was obligated to pay the monthly rent in the amount of \$1,680.00, as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that Tenant R.W. was deemed served with the 10 Day Notice on April 12, 2021, three days after its posting.

I accept the evidence before me that Tenant R.W. 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 Tenant R.W. 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, April 22, 2021.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$5,460.00, the amount claimed by the landlord for unpaid rent owing from January 2021 to April 2021, as of the date of this application, April 20, 2021.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on Tenant R.W. Should Tenant R.W. and any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$5,460.00 for rent owed from January 2021 to April 2021. The landlord is provided with this Order in the above terms and Tenant R.W. must be served with **this Order** as soon as possible. Should Tenant R.W. fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I dismiss the portion of the landlord's application for a Monetary Order naming Tenant L.C. as a respondent without 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: May 14, 2021

Residential Tenancy Branch