



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR-PP, 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 Landlord for an order of possession and a monetary order for unpaid rent and to recover the filing fee.

The Landlord submitted signed Proof of Service Notice of Direct Request Proceeding which declares that the Landlord served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on May 13, 2021, which service was witnessed by C.H. A Canada Post Customer Receipts which included the tracking number was also submitted in support. Pursuant to section 89 and 90 of the *Act*, I find these documents are deemed to have been received by the Tenant on May 18, 2021, 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 a monetary order for unpaid rent pursuant to sections 46 and 67 of the *Act*?
3. Is the Landlord entitled to recover the filing fee 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 parties on June 15, 2017, indicating a monthly Economic Rent in the amount of \$952.00 due on or before the first day of each month, for a tenancy commencing on July 1, 2017;
- Copies of Tenant Rent Reports for the following periods:
 - July 1 – December 31, 2017,
 - January 1 – December 31, 2018,
 - January 1 – December 31, 2019,
 - February 1 – March 31, 2021, and
 - April 1 – June 30, 2021;
- A copy of a Resident Ledger for the period from June 15, 2017 to May 1, 2021;
- A copy of a Repayment Plan dated September 8, 2020 confirming the repayment of \$5,291.00 in eight installment payments of \$587.89 and one installment payment of \$587.77, commencing on November 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 15, 2021 for \$11,836.00 in unpaid rent (the “10 Day Notice”). 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 April 30, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy document which indicate that the 10 Day Notice was served on the Tenant by registered mail on April 15, 2021, which service was supported by a Canada Post Customer Receipt which included the tracking number; 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 Tenant was obligated to pay monthly subsidized rent.

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 April 20, 2021, five days after it was sent by registered mail.

I accept the evidence before me that the Tenant 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 Tenant is conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on April 30, 2021, the effective date of the 10 Day Notice.

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

With respect to the Landlord's request for a monetary award for unpaid rent, I find there is insufficient evidence before me to establish the amount of rent due. The Tenant Rent Reports submitted do not include the amount of the Tenant contribution for the period from January 1, 2020 to January 31, 2020, during which much of the rent that comprises the Landlord's claim became due. As a result, I find I am unable to confirm the amount of rent due during this period.

Therefore, the Landlord's request for a monetary order for unpaid rent is dismissed with leave to reapply.

Having been partially successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the 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 must be served on the Tenant. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$100.00 in 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: May 31, 2021

Residential Tenancy Branch