



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR, MNR-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 and a monetary order based on unpaid rent and an order granting recovery of the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 15, 2021, the Landlord sent the Tenant the Notice of Dispute Resolution Proceeding - Direct Request 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 and evidence of the Landlord and in accordance with sections 89(1) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on July 15, 2021 and are deemed to have been received by the Tenant on July 20, 2021, five days after it was mailed.

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*?

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 February 1, 2021, indicating a monthly rent of \$525.00, due on the first day of each month for a tenancy commencing on February 1, 2021.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated June 3, 2021, for \$1,275.00 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 June 15, 2021.
- A copy of a signed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the Tenant’s door at 3:15pm on June 3, 2021 by the Landlord. This service was confirmed by witness R.C. who indicates on the witness section of the form witnessing the Landlord post the 10 Day Notice to the Tenant’s door on June 6, 2021; 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 the monthly rent in the amount of \$525.00, as per the tenancy agreement.

With respect to service of the 10 Day Notice, I note there is a discrepancy with respect to the date of service. The Landlord indicates the 10 Day Notice was served on June 3, 2021. The witness indicates the 10 Day Notice was served on June 6, 2021. However, I am satisfied that the 10 Day Notice was served in accordance with sections 88 and 90 of the *Act*, no later than June 6, 2021 and is deemed to have been received by the Tenant on June 9, 2021, three days after it was posted to the 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 the corrected effective date of the 10 Day Notice, June 19, 2021.

Therefore, I find that the Landlord is entitled to an order of possession and a monetary award in the amount of \$1,275.00, the amount claimed by the Landlord for unpaid rent owing for the months of April, May and June of 2021, as of the date of this application, June 25, 2021.

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

I grant an order of possession to the Landlord effective **two days after service of this order** on the Tenant. Should the Tenant 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 sections 67 and 72 of the *Act*, I grant the Landlord a monetary order in the amount of \$1,375.00 for unpaid rent and for the recovery of the filing fee for this application. The Landlord is provided with this order in the above terms and the Tenant must be served with **this order** as soon as possible. Should the Tenant 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.

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: July 21, 2021

Residential Tenancy Branch