



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP. and
[tenant name suppressed to protect privacy]

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. The Landlord also sought to recover the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 16, 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 that it was mailed.

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 16, 2021 and are deemed to have been received by the Tenant on July 21, 2021, the fifth day after they were 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

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 November 1, 2017, indicating a monthly rent of \$850.00, due on the first day of each month for a tenancy commencing on November 1, 2017.
- A copy of two Notice of Rent Increase forms showing the rent being increased from \$850.00 to the current monthly rent amount of \$906.10.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated June 3, 2021, for \$2,718.30 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 14, 2021.
- 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 at 4:00pm on June 3, 2021.
- A Direct Request Worksheet showing the rent owing and paid during the relevant period with an attached letter indicating that there was a typo on the 10 Day Notice and that partial payment for June’s rent was received on June 1, 2021 in the amount of \$300.00 making the total rent amount owing: \$2,418.30.
- A copy of a payment receipt for \$300.00 received on June 1, 2021 stating for “use and occupancy only”.

Analysis

I have reviewed all documentary evidence and I find that the Tenant was obligated to pay the monthly rent in the amount of \$906.10.

In accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on June 3, 2021 and is deemed to have been received by the Tenant on June 6, 2021, three days after it was posted to the door.

With respect to the rent amount owing on the 10 Day Notice, I note the Landlord’s typo in the amount of \$2,718.30 and acknowledge the Tenant’s partial payment of \$ 300.00 received on June 1, 2021 making the corrected amount of rent owed \$2,418.30.

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* after receiving the 10 Day Notice and did not dispute it 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 16, 2021.

Therefore, I find that the Landlord is entitled to an order of possession and a monetary award in the amount of \$2,418.30, the amount claimed by the Landlord for unpaid rent owing for April, May and June 2021, as of the date of this application, June 18, 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 section 67 *Act*, I grant the Landlord a monetary order in the amount of \$2,518.30 for unpaid rent and pursuant to section 72 of the *Act*, the Landlord may also recover 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 22, 2021

Residential Tenancy Branch