



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR-PP, MNR-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 and a monetary order based on unpaid rent.

The Landlord submitted two copies of a signed Proof of Service Notice of Direct Request Proceeding which declare that on July 15, 2021, the Landlord sent each Respondent the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The Landlord provided two copies of the Canada Post Customer Receipts containing the tracking numbers to confirm they were served to the Respondents.

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 Respondents on July 20, 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*?

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 previous Landlord and Respondent A.B. on April 23, 2015, indicating a monthly rent of \$980.00, due on the first day of each month for a tenancy commencing on June 1, 2015.
- A copy of a letter submitted by the Landlord dated June 16, 2021 confirming that they are the current Landlord and that the original Landlord named on the lease dated April 23, 2015 is deceased. A copy of a death certificate for the deceased Landlord was provided.
- A copy of four Notice of Rent Increase forms addressed to Respondent A.B. showing the rent being increased from \$980.00 to the current monthly rent amount of \$1,108.00.
- A copy of a Repayment Plan dated August 30, 2020 indicating that Respondent A.B. would be responsible for repayment of affected rent in monthly installments of \$344.40 starting on October 1, 2020.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated June 6, 2021, for \$3,824.00 in unpaid rent. The 10 Day Notice provides that the Respondents 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 21, 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 door of the rental unit at 1:40pm on June 6, 2021.
- A Direct Request Worksheet with an attached letter showing the rent owing and paid during the relevant period. Partial payment of \$450.00 was made on June 11, 2021.

Analysis

Section 13(2) of the Residential Tenancy Act states that a tenancy agreement must contain the correct legal names of both the Landlord(s) and Tenant(s). Section 12 (1) (b) of the Residential Tenancy Regulation establishes that a tenancy agreement is required to be “signed and dated by both the Landlord and the Tenant.”

I find that Respondent S.Z. named on this application is not listed as a Tenant nor has S.Z. signed the tenancy agreement provided by the Landlord which is a requirement of the direct request process. For these reasons, I find that S.Z. is not a Tenant and the Landlord's application seeking for an order of possession and monetary order against S.Z. is dismissed without leave to reapply.

I have reviewed all documentary evidence and I find that Respondent A.B. is a Tenant and was obligated to pay the monthly rent in the amount of \$1,108.00. I further find that Tenant A.B. was obligated to pay affected rent in installment monthly payments in the amount of \$344.40 beginning October 1, 2020 per the Repayment Plan.

In accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on 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 section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, June 21, 2021.

Therefore, I find that the Landlord is entitled to an order of possession and a monetary award in the amount of \$3,374.00 the amount claimed by the Landlord for unpaid rent for April, May and June 2021.

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 of the *Act*, I grant the Landlord a monetary order in the amount of \$3,374.00 for unpaid rent. 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 26, 2021

Residential Tenancy Branch