



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP, 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 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 a signed Proof of Service Notice of Direct Request Proceeding which declares that they served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on July 27, 2021. Service in this manner was supported by Canada Post registered mail receipts which included the tracking number. Pursuant to sections 89 and 90 of the *Act*, I find these documents are deemed to have been received by the Tenant on August 1, 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 signed residential tenancy agreement indicating a monthly subsidized rent in the amount of “30% of the tenant’s and occupant’s gross monthly household income or such other percentage as shall be determined by applying the applicable BC Rent Scale, or other such rent scale, or maximum amount, as the landlord may determine from time to time”, due on or before the first day of each month, for a tenancy commencing on December 1, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 10, 2021 for \$2,328.00 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 June 23, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy document which indicates that the 10 Day Notice was served on the Tenant by attaching a copy to the door of the Tenant’s residence on June 10, 2021, which service was witnessed by S.B.;
- A copy of a Repayment Agreement dated October 15, 2020 indicating an 11-month repayment schedule involving ten monthly payments of \$200.00 and one monthly payment of \$86.00, commencing December 1, 2020;
- A copy of a summary of arrears of monthly rent (\$2,390.00) and rent due under the Repayment Agreement (\$1,086.00) as of July 7, 2021.

Analysis

I have reviewed all documentary evidence and I find that at all material times the Tenant was obligated to pay monthly rent in the amount of \$482.00.

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 June 13, 2021, three days after it was attached to the Tenant’s door.

I accept the evidence before me that the Tenant failed to pay the rent owed in full within 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 section 46(5) of the *Act* to have accepted that the tenancy ended on June 23, 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 order for unpaid rent, I find I am unable to determine the precise amount of rent due. Claims under the Direct Request Process are limited to what is indicated in the 10 Day Notice. In this case, that amount is \$2,328.00. However, the Landlord's application seeks a monetary award for unpaid rent in the amount of \$3,476.00. Even deducting the rent due on July 1, 2021, the figures are not the same.

On review of the Landlord's evidence, including the summary of rent due, it appears the Landlord may be entitled to a monetary award of \$1,086.00 for unpaid rent under the Repayment Agreement and \$1,908.00 for rent due from March to June 2021 (there is a typographical error in the Landlord's summary). However, I find I am unable to clarify the discrepancies between the application, the 10 Day Notice, and the summary of rent due. As a result, I find that the Landlord's request for a monetary order for unpaid rent is dismissed with leave to reapply.

Having been partially successful, I 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: August 12, 2021

Residential Tenancy Branch