



Dispute Resolution Services

Page: 1

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 to obtain an order of possession and a monetary order for unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the Landlord on July 17, 2021.

The Landlord submitted a copy of a Proof of Service Notice of Direct Request Proceeding form which declares that on July 29, 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 they served the Tenant.

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 29, 2021 and are deemed to have been received by the Tenant on August 3, 2021, the fifth day after they were mailed.

Issues 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

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 December 10, 2019, indicating a monthly rent of \$1,800.00, due on the first day of each month for a tenancy commencing on December 10, 2019;
- a copy of a Repayment Plan indicating that the Tenant would be responsible for repayment of affected rent in monthly installments of \$580.00 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 16, 2021, for \$1,300.00 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 27, 2021;
- a copy of a Proof of Service Notice to End Tenancy form signed by the Tenant which indicates that the 10 Day Notice was personally served to the Tenant at 5:30pm on June 16, 2021;
- a copy of a document titled “Final Notice of rent July 4, 2021 (r) (a)(f)” dated July 4, 2021 that indicates the amount of \$10,160.00 owing in rent; and;
- two copies of Direct Request Worksheets showing \$6,680.00 total rent owing.

Analysis

In accordance with section 88 of the *Act*, I find that the 10 Day Notice was served on June 16, 2021.

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 27, 2021.

Therefore, I find that the Landlord is entitled to an order of possession.

I find that the amount of \$1,300.00 of rent owing on the 10 Day Notice does not match neither what the Direct Request Worksheet indicates for rent owing of \$6,680.00 nor

what the Landlord is claiming on the Application for Dispute Resolution in the amount of \$10,160.00. For this reason, the Landlord's application for a monetary order for unpaid rent is dismissed, with leave to reapply.

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.

The Landlord's application for a monetary order for unpaid rent is dismissed, with leave to reapply.

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 16, 2021

Residential Tenancy Branch