



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, 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 based on unpaid rent and to obtain monetary compensation for unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on October 8, 2021.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on October 14, 2021, the landlord personally served Tenant M.M. the Notice of Dispute Resolution Proceeding - Direct Request. The landlord had a witness sign the Proof of Service Notice of Direct Request Proceeding to confirm personal service.

Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that the Direct Request Proceeding documents were duly served to Tenant M.M. on October 14, 2021.

I find the landlord has not submitted a copy of a Proof of Service Notice of Direct Request Proceeding form to establish service of the Notice of Dispute Resolution Proceeding – Direct Request to Tenant S.C. In its place, I find the landlord submitted a second copy of the form discussing service of the Direct Request documents to Tenant M.M.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding – Direct Request to Tenant S.C. For this reason, I will only proceed with the portion of the landlord's application naming Tenant M.M. as a respondent.

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

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and Tenant M.M. on October 5, 2016, indicating a monthly rent of \$953.00, due on the first day of each month for a tenancy commencing on October 15, 2016
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 2, 2021, for \$595.00 in unpaid rent. The 10 Day Notice provides that the tenants 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 September 12, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to Tenant M.M. at 11:00 am on September 2, 2021
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the 10 Day Notice was duly served to Tenant M.M. on September 2, 2021.

I accept the evidence before me that Tenant M.M. 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 Tenant M.M. 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, September 12, 2021.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent.

I note that the amount of the monthly rent established in the tenancy agreement (\$953.00) does not match the amount of the monthly rent listed on the 10 Day Notice and the Direct Request Worksheet (\$595.00).

I find the landlord has not submitted a copy of a Tenant Rent Contribution letter, an Application for Rent Subsidy, or any other document to establish the current amount of rent payable.

I find I am not able to determine the amount of the monthly rent and 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 Tenant M.M. Should Tenant M.M. and any other occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I dismiss the landlord's application for a Monetary Order for unpaid rent 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: November 18, 2021

Residential Tenancy Branch