



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX LITTLE OAK REALTY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-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 based on unpaid rent and to recover the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that the Landlord served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on December 7, 2021. Service in this manner was supported by Canada Post registered mail receipts which confirmed the date and time of service and 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 December 12, 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 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 residential tenancy agreement signed on July 24, 2018, indicating a monthly rent in the amount of \$675.00 due on the first day of each month, for a tenancy commencing on July 1, 2016;
- A copy of a letter dated September 21, 2018 confirming the sale of the rental property, that the Landlord is the property manager as of September 28, 2018, and that rent should be paid to the Landlord;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 16, 2021 for \$1,072.50 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 November 26, 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 or other conspicuous place where the Tenant resides on November 16, 2021, which service was witnessed by E.L.;
- A copy of a Direct Request Worksheet showing the rent due and paid during the relevant period; and
- A copy of a statement of account for the period from December 1, 2020 to November 1, 2021.

Analysis

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 November 19, 2021, three days after it was attached to the Tenant’s door or other conspicuous place.

Having examined the 10 Day Notice submitted into evidence, I find it complies with the form and content requirements of section 52 of the Act.

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 sections 46(5) and 53(2) of the Act to have accepted that the tenancy ended on November 29, 2021, the corrected effective date of the 10 Day Notice, and must vacate the rental unit.

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.

As the Landlord has been successful, I find they are entitled to a monetary award in the amount of \$100.00 in recovery of the filing fee.

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 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 for this application. 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: January 11, 2022

Residential Tenancy Branch