



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR, 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 by the landlords to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlords on January 28, 2022.

The landlords submitted a Proof of Service Notice of Direct Request Proceeding form signed by the tenant which declares that on February 1, 2022, the landlords personally served the tenant the Notice of Dispute Resolution Proceeding - Direct Request.

Based on the written submissions and evidence of the landlords and in accordance with section 89 of the *Act*, I find that the Direct Request Proceeding documents were served to the tenant on February 1, 2022.

Issues to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The landlords submitted the following relevant evidentiary material:

- a copy of a residential tenancy agreement which was signed by the landlords and the tenant on October 7, 2019, indicating a monthly rent of \$1,350.00, due on the fifteenth day of each month for a tenancy commencing on October 15, 2019;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated January 11, 2022, for \$4,500.00 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 January 21, 2022;
- 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 12:50pm on January 11, 2022; and;
- a copy of a Direct Request Worksheet with two pages attached showing the rent owing and paid during the relevant period.

Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the 10 Day Notice was served to the tenant on January 11, 2022.

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, January 21, 2022.

Therefore, I find that the landlords are entitled to an Order of Possession and a monetary award in the amount of \$4,500.00, the amount claimed by the landlords for unpaid rent owing for August 2020 to December 2020 and June 2021 to December 2021.

As the landlords were successful in this application, I find that the landlords are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlords 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 sections 67 and 72 of the *Act*, I grant the landlords a Monetary Order in the amount of \$4,600.00 for rent owed for August 2020 to December 2020, June 2021 to December 2021 and for the recovery of the filing fee for this application. The landlords are 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: February 16, 2022

Residential Tenancy Branch