



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 by the landlords to obtain an Order of Possession based on 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 copy of a Proof of Service Notice of Direct Request Proceeding form which declares that on February 4, 2022, they emailed the tenant the Notice of Dispute Resolution Proceeding - Direct Request to a pre-agreed upon email address. The landlords provided a copy of the email sent to the tenant dated February 4, 2022 with the Notice of Dispute Resolution Proceeding - Direct Request attached. The landlords also submitted a copy of an Address for Service form RTB # 51 form to confirm the tenant's email address for service of documents.

Based on the written submissions and evidence of the landlords and in accordance with sections 43(2) and 44 of the *Residential Tenancy Regulation*, I find that the Direct Request Proceeding documents were served on February 4, 2022 and are deemed to have been received by the tenant on February 7, 2022, the third day after they were emailed.

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 recover the filing fee for this application 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 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 3, 2021, indicating a monthly rent of \$1,550.00, due on the twenty-fifth day of each month for a tenancy commencing on October 25, 2021;
- a copy of an addendum to the residential tenancy agreement signed by the landlords and tenant, that indicates a change to the due date of the monthly rent from the twenty-fifth day of each month to the first day of each month effective November 1, 2021;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated January 12, 2022, for \$250.00 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 23, 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 11:50am on January 12, 2022; and;
- a copy of a Direct Request Worksheet 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 12, 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 23, 2022.

Therefore, I find that the landlords are entitled to an Order of Possession.

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 section 72 of the *Act*, I grant the landlords a Monetary Order in the amount of \$100.00 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 24, 2022

Residential Tenancy Branch