



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN MENTAL HEALTH ASSOC. FOR THE
KOOTENAYS and [tenant name suppressed to protect privacy]

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 filed by the Landlord for an order of possession and a monetary order for unpaid rent and to recover the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that they served the Tenant with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on February 9, 2022. Service in this manner was supported by Canada Post registered mail receipts which confirmed the date and time of purchase 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 February 14, 2022, 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 a monetary order for unpaid rent pursuant to sections 46 and 67 of the Act?
3. 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 signed residential tenancy agreement indicating a monthly rent of \$418.00 due on the first day of each month, for a tenancy commencing on October 6, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 18, 2022, for \$608.00 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 January 31, 2022;
- 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 leaving a copy in the mailbox or mail slot where the Tenant resides on January 18, 2022, which service was witnessed by D.R.; and
- A copy of a Direct Request Worksheet showing the rent due (\$608.00) and paid (\$248.00) during the relevant period, leaving \$360.00 outstanding.

Analysis

I have reviewed all documentary evidence and I find that the tenancy agreement confirms the Tenant was obligated to pay monthly rent of \$418.00. However, the Direct Request Worksheet indicates the Tenant was obligated to pay monthly rent of \$307.00 on December 1, 2022, and \$301.00 on January 1, 2022. As the amounts provided by the Landlord on the Direct Request Worksheet are less than the rent amount stated in the tenancy agreement, I accept the Direct Request Worksheet represents the amount of rent due. In the future, the Landlord should include documentation in support of the monthly rent claimed if different than what is stated in the tenancy agreement.

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 January 21, 2022, three days after a copy was left in the mailbox or mail slot where the Tenant resides.

I find the 10 Day Notice 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 and did not dispute the 10 Day Notice within five days after receipt of the 10 Day Notice in accordance with section 46(4) of the Act.

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 January 31, 2022, the effective date of the 10 Day Notice.

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.

I also find the Landlord has demonstrated an entitlement to a monetary award of \$360.00 for unpaid rent to January 31, 2022. Claims under the Direct Request process are limited to what is indicated in the 10 Day Notice. The Landlord remains at liberty to reapply for a monetary order for any additional unpaid rent or other losses.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application.

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 must be served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order of \$460.00 for unpaid rent and in recovery of the filing fee. 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: February 24, 2022

Residential Tenancy Branch