



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
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 by the landlord 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 landlord on January 28, 2022.

The landlord submitted a copy of two Proof of Service Notice of Direct Request Proceeding forms which declare that on February 10, 2022, the landlord sent each tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord provided a copy of two Canada Post Customer Receipts containing the tracking numbers to confirm they served the tenants.

Based on the written submissions and evidence of the landlord and in accordance with sections 89(1) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on February 10, 2022 and are deemed to have been received by the tenants on February 15, 2022, the fifth day after they were mailed.

Issues 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*?

Is the landlord 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 landlord submitted the following relevant evidentiary material:

- a copy of a residential tenancy agreement which was signed by the landlord and the tenants on December 11, 2019, indicating a monthly rent of \$1,350.00, due on the first day of each month for a tenancy commencing on December 17, 2019 ;
- a copy of one Notice of Rent Increase form showing the rent being increased from \$1,350.00 to the monthly rent amount of \$1,370.25;
- a copy of a locker addendum to tenancy agreement dated September 16, 2021 which indicates that the tenants will be charged a \$30.00 locker fee commencing on Oct 1, 2021;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated January 19, 2022, for \$4,140.25 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 February 1, 2022;
- a copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants’ door at 1:54pm on January 19, 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 sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on January 19, 2022 and is deemed to have been received by the tenants on January 22, 2022, three days after it was posted to the door of the rental unit.

I accept the evidence before me that the tenants have 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 tenants are 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, February 1, 2022.

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

I note that the only monetary award available to a landlord by way of the direct request process is for unpaid rent and unpaid utilities. As the landlord has also sought a monetary award for matters relating to a locker fee in the amount of \$30.00 per month as specified in the locker addendum to tenancy agreement, I would not be able to consider this aspect of the landlord's claim through the direct request process.

I find the landlord is entitled to a monetary award in the amount of \$4,020.25 for unpaid rent owing for October 2021 to December 2021 and January 2022.

As the landlord was partially successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) 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 landlord a Monetary Order in the amount of \$4,120.25 for rent owed for October 2021 to December 2021, January 2022, and for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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.

The landlord's application for a Monetary Order for unpaid locker fees is dismissed 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: March 02, 2022

Residential Tenancy Branch