



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AA Desert Inn Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR

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 and to obtain monetary compensation for unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on February 13, 2022.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on February 19, 2022, the landlord served each tenant the Notice of Dispute Resolution Proceeding - Direct Request in person. The landlord had a witness sign the Proof of Service Notice of Direct Request Proceeding forms to confirm personal service.

Based on the written submissions of the landlord and in accordance with section 89 of the *Act*, I find that the Direct Request Proceeding documents were duly served to the tenants on February 19, 2022.

Issue(s) 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*?

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 May 1, 2021, indicating a monthly rent of \$1,400.00, due on the first day of each month for a tenancy commencing on May 1, 2021
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 2, 2022, for \$5,600.00 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 12, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was served to the tenants in person at 4:30 pm on February 2, 2022
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

Analysis

I have reviewed all documentary evidence and I find that the tenants were obligated to pay the monthly rent in the amount of \$1,400.00, as per the tenancy agreement.

In accordance with section 88 of the *Act*, I find that the 10 Day Notice was duly served to the tenants on February 2, 2022.

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 12, 2022.

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

The Direct Request Worksheet must clearly show any additional months for which the tenant still owes rent to substantiate the landlord's monetary claim.

I note that the amount of rent owing for December 2021 on the Direct Request Worksheet (\$4,200.00) does not match the monthly rent listed in the tenancy agreement (\$1,400.00).

I find I am not able to confirm which months' rent are owing and for this reason the landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

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.

I dismiss the landlord's application for a Monetary Order for unpaid rent 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 14, 2022

Residential Tenancy Branch