



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Parallel 50 Realty and Property Management
Inc. 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 April 7, 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*?

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

Notice of Dispute Resolution Proceeding – Direct Request

In this type of matter, the landlord must prove they served the tenants with the Notice of Dispute Resolution Proceeding– Direct Request and all documents in support of the application in accordance with subsections 89 (1) and (2) of the *Act* which permit service:

- by leaving a copy with the person
- by sending a copy by registered mail
- by leaving a copy with an adult who apparently resides with the tenant
- by attaching a copy to the door
- by any other means of service provided for in the regulations

Section 43(2) of the *Residential Tenancy Regulation* provides that documents “*may be given to a person by emailing a copy to an email address provided as an address for service by the person.*”

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on April 20, 2022, the landlord sent Tenant R.R. the Notice of Dispute Resolution Proceeding - Direct Request by e-mail. The landlord provided a copy of the outgoing e-mail containing the Direct Request documents as attachments to confirm this mailing. The landlord also submitted a copy of an Address for Service form which was signed by Tenant R.R. on November 18, 2021, indicating that Tenant R.R. agreed to receive documents by e-mail.

Based on the written submissions of the landlord and in accordance with sections 43(2) and 44 of the *Regulation*, I find that the Direct Request Proceeding documents were served on April 20, 2022 and are deemed to have been received by Tenant R.R. on April 23, 2022, the third day after their e-mailing.

The landlord also submitted a signed Proof of Service Notice of Direct Request Proceeding form which declares that on April 20, 2022, the landlord served Tenant G.S. the Notice of Dispute Resolution Proceeding - Direct Request by placing the documents under the door of the rental unit.

I find that while the landlord is permitted to attach documents to the door, placing them under the door is not a method of service that is in accordance with section 89 of the *Act*.

I find the landlord has not served Tenant G.S. the Notice of Dispute Resolution Proceeding – Direct Request in accordance with the *Act* or the *Regulation*. For this reason, I will only proceed with the portion of the landlord’s application naming Tenant R.R. as a respondent.

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 names a landlord who is not the applicant and was signed by the tenants on November 18, 2021, indicating a monthly rent of \$1,950.00, due on the first day of each month for a tenancy commencing on December 1, 2021

- A copy of a letter showing the transfer of management responsibilities from the landlord named on the tenancy agreement to the landlord who is applying for dispute
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 21, 2022, for \$2,000.00 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 March 31, 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 3:30 (am or pm not indicated) on March 21, 2022
- A Direct Request Worksheet and ledger showing the rent owing and paid during the relevant portion of this tenancy

Analysis

I have reviewed all documentary evidence and I find that Tenant R.R. was obligated to pay the monthly rent in the amount of \$1,950.00, as per the tenancy agreement.

In accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on March 21, 2022 and is deemed to have been received by Tenant R.R. on March 24, 2022, three days after its posting.

I accept the evidence before me that Tenant R.R. 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 Tenant R.R. is conclusively presumed under sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, April 3, 2022.

In a Direct Request Proceeding, a landlord cannot pursue rent owed for an amount beyond the amount noted on the 10 Day Notice that was issued to the tenant. I find the 10 Day Notice only lists amounts owing for March 2021. For this reason, I cannot hear the portion of the landlord's monetary claim for rent owed for April 2022.

I also note that the only monetary award available to a landlord by way of the Direct Request process is for unpaid rent and unpaid utilities. The ledger submitted by the landlord shows the landlord has also sought a monetary award for matters relating to late charges, parking, and an NSF fee. I find I am not able to consider these aspects of the landlord's claim through the Direct Request process.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$1,950.00, the amount claimed by the landlord for unpaid rent owing for March 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 Tenant R.R. Should Tenant R.R. **and any other occupant** 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 \$2,050.00 for rent owed for March 2022 and for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and Tenant R.R. must be served with **this Order** as soon as possible. Should Tenant R.R. 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.

I dismiss the portion of the landlord's application for a Monetary Order for unpaid rent owing for March 2022, naming Tenant G.S. as a respondent, without leave to reapply.

I dismiss the landlord's application for a Monetary Order for late fees, NSF fees, parking, and unpaid rent owing for April 2022 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: May 17, 2022

Residential Tenancy Branch