



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 June 8, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on June 22, 2022, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on June 22, 2022 and are deemed to have been received by the tenant on June 27, 2022, the fifth day after their registered mailing.

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*?

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 a landlord who is not the applicant and the tenant on October 7, 2020, indicating a monthly rent of \$2,080.00, due on the first day of each month for a tenancy commencing on December 1, 2020
- A copy of a Contract of Purchase and Sale showing the transfer of ownership from the landlord named on the tenancy agreement to the new owner of the rental property
- A copy of a property management agreement, signed by the new owner, showing the authorization of management responsibilities for the landlord named on the 10 Day Notices and the property manager who is applying for dispute
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the April 10 Day Notice) dated April 11, 2022, for \$2,410.00 in unpaid rent. The April 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 April 21, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the April 10 Day Notice was posted to the tenant's door at 4:10 pm on April 11, 2022
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the May 10 Day Notice) dated May 17, 2022, for \$3,390.00 in unpaid rent. The May 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 May 27, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the May 10 Day Notice was served to the tenant in person at 6:10 pm on May 17, 2022
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy. The Direct Request Worksheet noted that \$450.00 of the rent owing for May 2022 was paid on May 30, 2022

Analysis

I have reviewed all documentary evidence and I find that the tenant was obligated to pay the monthly rent in the amount of \$2,080.00, as per the tenancy agreement.

In accordance with section 88 of the *Act*, I find that the May 10 Day Notice was duly served to the tenant on May 17, 2022.

I accept the evidence before me that the tenant has failed to pay the rent owed in full by May 22, 2022, within the five days granted under section 46(4) of the *Act* and did not dispute the May 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 May 10 Day Notice, May 27, 2022.

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

I am satisfied that the amount owing on the April 10 Day Notice is accurate as the amount matches the balance owing as of April 11, 2022, on the Direct Request Worksheet (\$2,410.00). However, I find that the amount listed as owing on the May 10 Day Notice (\$3,390.00) does not match the balance owing as of May 17, 2022, on the Direct Request Worksheet (\$4,490.00).

I find I am not able to confirm the precise amount of rent owing for May 2022 and for this reason, the landlord's application for a Monetary Order for unpaid rent owing for May 2022 is dismissed with leave to reapply.

I also note that in a Direct Request Proceeding, a landlord cannot pursue rent owed for a period beyond the date on which the Notice was issued to the tenant. The most recent 10 Day Notice was issued to the tenant on May 17, 2022. Therefore, within the purview of the Direct Request process, I cannot hear the monetary portion of the landlord's application for rent owed for June 2022.

Therefore, I find that the landlord is entitled to a monetary award in the amount of \$2,410.00, the amount claimed by the landlord for unpaid rent owing for March 2022 and April 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. 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 sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,510.00 for rent owed for March 2022 and April 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 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.

I dismiss the landlord's application for a Monetary Order for unpaid rent owing for May 2022 and June 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: July 14, 2022

Residential Tenancy Branch