



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RANDALL NORTH REAL ESTATE SERVICES
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 June 27, 2022.

The landlord submitted a copy of a witnessed Proof of Service Notice of Direct Request Proceeding form which declares that on July 14, 2022, the landlord personally served tenant J.C. the Notice of Dispute Resolution Proceeding - Direct Request.

Based on the written submissions and evidence of the landlord and in accordance with section 89(1) of the *Act*, I find that the Direct Request Proceeding documents were served to tenant J.C. on July 14, 2022.

The landlord submitted a second copy of a witnessed Proof of Service Notice of Direct Request Proceeding form which declares that on July 14, 2022, the landlord served tenant K.H. the Notice of Dispute Resolution Proceeding - Direct Request by handing it to tenant J.C.

Based on the written submissions and evidence of the landlord and in accordance with section 89(2) of the *Act*, I find that the Direct Request Proceeding documents were served to tenant K.H. on July 14, 2022.

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

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 signed by the tenants on May 4, 2021, indicating a monthly rent of \$975.00, due on the first day of each month for a tenancy commencing on June 1, 2021;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated June 15, 2022, for \$1,065.00 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 June 25, 2022;
- a copy of two witnessed Proof of Service Notice to End Tenancy forms which indicate that two copies of the 10 Day Notice was posted to the tenants’ door at 6:15pm on June 15, 2022;
- a copy of a management agreement dated June 1, 2022 that shows the applicant is agent for the landlord; and;
- a copy of a Direct Request Worksheet showing the rent owing during the relevant period.

Analysis

In this type of matter, the landlord must prove they served the tenants with the Notices of Dispute Resolution Proceeding– Direct Request and all documents in support of the application in accordance with section 89 of the *Act*.

Section 89(1) of the *Act* does not allow for the Notice of Dispute Resolution Proceeding - Direct Request to be given to a tenant by leaving a copy with an adult who resides with the tenant.

Section 89(2) of the *Act* does allow for the Notice of Dispute Resolution Proceeding - Direct Request to be given to a tenant by leaving a copy with an adult who resides with the tenant, only when considering an Order of Possession for the landlord.

I find that the landlord has served the Notice of Dispute Resolution Proceeding - Direct Request to tenant K.H. by leaving a copy with tenant J.C., and for this reason, the monetary portion of the landlord's application concerning unpaid rent against tenant K.H. is dismissed, without leave to reapply.

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 June 15, 2022 and is deemed to have been received by the tenants on June 18, 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 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, June 28, 2022.

Therefore, I find that the landlord is entitled to an Order of Possession against both tenants and a monetary award against tenant J.C. in the amount of \$975.00, the amount claimed by the landlord for unpaid rent owing for June 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 \$1,075.00 for rent owed for June 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 J.C. must be served with **this Order** as soon as possible. Should tenant J.C. 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 rent naming tenant K.H. as a tenant is dismissed without 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: August 04, 2022

Residential Tenancy Branch