



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR

Preliminary Matters

I note that the landlord's name on the Application for Dispute Resolution is slightly different than the landlord's name shown on the tenancy agreement, the 10 Day Notice, and all other documents submitted with the Application. Section 64(3)(c) of the *Act* allows me to amend the application to reflect the landlord's name in the tenancy agreement, which I have done.

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 August 15, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on August 17, 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 August 17, 2022 and are deemed to have been received by the tenant on August 22, 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*?

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 tenant on February 24, 2022, indicating a monthly rent of \$3,200.00, due on the first day of each month for a tenancy commencing on March 1, 2022
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 17, 2022, for \$1,600.00 in unpaid rent. The 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 June 27, 2022
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenant by registered mail at 2:00 pm on June 17, 2022
- A copy of an envelope containing the Canada Post tracking number to confirm the 10 Day Notice was sent to the tenant on June 17, 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 tenant was obligated to pay the monthly rent in the amount of \$3,200.00, 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 June 17, 2022 and is deemed to have been received by the tenant on June 22, 2022, five days after its registered mailing.

I accept the evidence before me that the tenant 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 the tenant 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, July 2, 2022.

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

I note that the Direct Request Worksheet indicates the tenant paid \$1,600.00 of the \$3,200.00 monthly rent, leaving a balance owing of \$1,600.00 for June 2022. However, on the Application for Dispute Resolution, the landlord has indicated the tenant paid \$2,100.00 towards the rent for June 2022, leaving a balance owing of \$1,100.00.

I find I am not able to confirm the precise amount of rent 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. 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.

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: September 13, 2022

Residential Tenancy Branch