



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-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 landlords to obtain an Order of Possession based on unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlords on August 24, 2022.

The landlords submitted a copy of a Proof of Service Notice of Direct Request Proceeding form signed by the tenant which declares that on September 13, 2022, the landlords personally served the tenant the Notice of Dispute Resolution Proceeding - Direct Request.

Based on the written submissions and evidence of the landlords and in accordance with section 89(1) of the *Act*, I find that the Direct Request Proceeding documents were served to the tenant on September 13, 2022.

Issue to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

The landlords submitted the following relevant evidentiary material:

- a copy of a residential tenancy agreement which was signed by landlord J.D. and the tenant on January 3, 2021, indicating a monthly rent of \$1,975.00, due on the last day of each month for a tenancy commencing on February 1, 2021;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated August 16, 2022, for \$1,975.00 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 August 25, 2022;
- a copy of a Proof of Service Notice to End Tenancy form signed by the tenant which indicates that the 10 Day Notice was personally served to the tenant at 7:20pm on August 16, 2022; and;
- a copy of a Direct Request Worksheet showing the rent owing during the relevant period.

Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the 10 Day Notice was served to the tenant on August 16, 2022.

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, August 26, 2022.

Therefore, I find that the landlords are entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the landlords 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.

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: October 11, 2022

Residential Tenancy Branch