

DECISION

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 the landlord's Application for Dispute Resolution (Application) for:

- an Order of Possession based on unpaid rent pursuant to sections 46 and 55 of the Act

Service of Notice of Dispute Resolution Proceeding - Direct Request

The landlord submitted a copy of a Proof of Service Notice of Direct Request Proceeding form signed by the tenant which declares that on October 17, 2022 they personally served the tenant the Notice of Dispute Resolution Proceeding - Direct Request (Proceeding Package). In accordance with section 89(1) of the Act and based on the written submissions and evidence of the landlord:

- I find that on October 17, 2022, the landlord personally served the tenant the Proceeding Package.

Issue to be decided

Is the landlord entitled to an Order of Possession based on unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement which was signed by the landlord and the tenant on May 1, 2022, indicating a monthly rent of \$600.00, due on the first day of the month for a tenancy commencing on May 1, 2022;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) dated June 17, 2022, for \$1,200.00 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 29, 2022;

- a copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenant at 3:40 pm on June 17, 2022; and;
- a copy of a Direct Request Worksheet showing the rent owing during the relevant period.

Analysis

Is the landlord entitled to an Order of Possession based on unpaid rent?

Section 46 of the Act requires that upon receipt of a 10 Day Notice the tenant must, within five days, either pay the full amount of the arrears as indicated on the 10 Day Notice or dispute the 10 Day Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not pay the arrears or dispute the 10 Day Notice they are conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the Act.

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 June 17, 2022.

I find that the tenant was obligated to pay the monthly rent in the amount of \$600.00, as per the tenancy agreement.

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 section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day Notice, June 29, 2022.

Therefore, I find that the landlord is entitled to an Order of Possession based on unpaid rent pursuant to sections 46 and 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service of this Order on the tenant**. Should the tenant or anyone on the premises 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: November 24, 2022

Residential Tenancy Branch