

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 Person B.A. which declares that the tenant was served with the Notice of Dispute Resolution Proceeding - Direct Request (Proceeding Package) by handing it to an adult who apparently resides with the tenant. In accordance with sections 89(2) and 90 of the Act and based on the written submissions and evidence of the landlord:

- I find that tenant R.S. was served the Proceeding Package on October 25, 2022.

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 tenant on June 17, 2017, indicating a monthly rent of \$2,040.00, due on the first day of the month for a tenancy commencing on July 1, 2017;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) dated October 2, 2022, for \$1,310.00 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 October 13, 2022;

- a copy of a Proof of Service Notice to End Tenancy form signed by Person R.S. which indicates that the 10 Day Notice was served to the tenant by handing it to an adult who resides with the tenant at 6:00 pm on October 2, 2022; and;
- a copy of a Direct Request Worksheet showing the rent owing and paid 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 October 2, 2022.

I find that the tenant was obligated to pay the monthly rent in the amount of \$2,040.00, 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, October 13, 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 29, 2022

Residential Tenancy Branch