

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 two Proof of Service Notice of Direct Request Proceeding forms which declare that on October 27, 2022 they sent each tenant the Notice of Dispute Resolution Proceeding - Direct Request (Proceeding Package) by registered mail to the rental unit. The landlord provided two photographs of two post stamped envelopes addressed to the tenants containing tracking numbers and two tracking reports to confirm this service. In accordance with sections 89(1) and 90 of the Act and based on the written submissions and evidence of the landlord:

- I find that on October 27, 2022, the landlord sent the Proceeding Packages to the tenants by registered mail, and they are deemed to have been received by the tenants on November 1, 2022, the fifth day after they were mailed.

Issue to be decided

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

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 evidentiary material:

- a copy of a residential tenancy agreement which names a landlord who is not the applicant and was signed by tenant K.N. on July 30, 2019, indicating a monthly rent of \$1,850.00, due on the first day of the month for a tenancy commencing on August 1, 2019;
- a copy of one Notice of Rent Increase form showing the rent being increased from \$1,850.00 to the monthly rent amount of \$1,877.00;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) dated September 13, 2022, for \$1,871.00 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 September 30, 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 tenant R.S. at 11:33 am on September 13, 2022;
- a copy of an ownership change letter dated January 15, 2021 showing the applicant is the owner; and;
- a copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

Analysis

Paragraph 12 (1) (b) of the Residential Tenancy Regulation establishes that a tenancy agreement is required to be “signed and dated by both the landlord and the tenant.”

I find that tenant R.S. has not signed the tenancy agreement, which is a requirement of the direct request process. For this reason, the portion of the landlord’s application against tenant R.S. is dismissed without leave to reapply.

I have reviewed all documentary evidence and I find that tenant K.N. signed the tenancy agreement and was obligated to pay the monthly rent in the amount of \$1,877.00.

In accordance with section 88 of the *Act*, I find that the 10 Day Notice was served to tenant K.N. on September 13, 2022.

I accept the evidence before me that tenant K.N. 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 tenant K.N. 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, September 30, 2022.

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

Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service of this Order on tenant K.N.** Should tenant K.N. 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.

The portion of the landlord's application against tenant R.S. 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: December 1, 2022

Residential Tenancy Branch