



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HFBC HOUSING FOUNDATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

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 for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 4, 2017, the landlord sent the tenant the Notice of Direct Request Proceeding 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 tenant has been deemed served with the Direct Request Proceeding documents on May 9, 2017, 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

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;

- A copy of a residential tenancy agreement which was signed by a landlord who is not the applicant on March 24, 2011 and the tenant on March 13, 2011, indicating a monthly rent of \$815.00, due on the first day of the month for a tenancy commencing on March 1, 2011;
- A copy of a previous Arbitrator's decision, dated November 24, 2016, accepting the change of ownership from the former landlord, who is named on the residential tenancy agreement, to the current landlord who is applying for dispute resolution;
- Two copies of Notice of Rent Increase forms showing the rent being increased from \$815.00 to the monthly rent amount of \$874.00;
- A copy of the first page of a two-page Notice of Rent Increase form;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 7, 2017, and sent to the tenant by registered mail on April 7, 2017, with a stated effective vacancy date of April 22, 2017, for \$112.94 in unpaid rent.

Documentary evidence filed by the landlord indicates that the 10 Day Notice was sent to the tenant by registered mail at 4:00 pm on April 7, 2017. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. The 10 Day Notice states 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.

Analysis

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on April 12, 2017, 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 5 days granted under section 46(4) of the *Act* and did not dispute the 10 Day Notice within that 5 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, April 22, 2017.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing as of April 25, 2017.

I note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. When there has been a rent increase, the complete Notice of Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate the claim for the increased rent. I find that the landlord has not submitted a complete copy of the most recent Notice of Rent Increase form, and for this reason the monetary portion of the landlord's application 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 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: May 10, 2017

Residential Tenancy Branch