



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding Buckham & Co property care
and [tenant name suppressed to protect privacy]

Dispute Codes OPR, MNR

Introduction

This matter was originally conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by Direct Request from the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The adjudicator in that proceeding determined the Application was not suitable to be adjudicated without the benefit of a participatory hearing as per Decision dated May 18, 2017. This decision records the results of that participatory hearing.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on May 24, 2017 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following relevant documentary evidence:

- A copy of a residential tenancy agreement which was signed by the tenant and a landlord who is not the applicant on January 1, 2017 for a month to month tenancy beginning on January 1, 2017 for the monthly rent of \$800.00 due on the 1st of each month and a security deposit of \$400.00 was paid. I note the tenancy agreement also contains a signature of the applicant dated April 26, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 3, 2017 with an effective vacancy date of May 13, 2017 due to \$800.00 in unpaid rent; and
- A copy of a Proof of Service – Notice to End Tenancy form signed by the tenant confirming that she received the 10 Day Notice to End Tenancy for Unpaid Rent on May 3, 2017 at 4:00 p.m.

The landlord submitted the tenant failed to pay the full rent owed for the month of May 2017 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent as per the Proof of Service – Notice to End Tenancy form noted above.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord acknowledged receipt of a payment of \$775.00 on May 20, 2017 and \$400.00 on June 3, 2017

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice was received by the tenant on May 3, 2017 and the effective date of the notice was May 13, 2017. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find 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 Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,225.00** comprised of the rent owed.

I order the landlord may deduct the security deposit and interest held in the amount of \$400.00 in partial satisfaction of this claim, pursuant to Section 72(s)(b) of the *Act*. I grant a monetary order in the amount of **\$825.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: July 07, 2017

Residential Tenancy Branch