



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 26, 2017, the landlords sent Tenant T.M. the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that Tenant T.M. has been deemed served with the Direct Request Proceeding documents on July 31, 2017, the fifth day after their registered mailing.

The landlords have not provided a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant R.N. and have not established that Tenant R.N. has been served with the Notice of Direct Request Proceeding. Therefore the landlords' application naming Tenant R.N. as a respondent is dismissed with leave to reapply.

I will now hear the landlords' application naming Tenant T.M. as respondent.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to Tenant T.M.;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on May 2, 2017, indicating a monthly rent of \$680.00, due on the first day of each month for a tenancy commencing on May 1, 2017;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- A copy of a personal cheque dated July 18, 2017 in the amount of \$340.00;
- A copy of a Canada Post Money Order dated July 21, 2017 in the amount of \$340.00; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 5, 2017, and posted to the tenants' door on July 5, 2017, with a stated effective vacancy date of July 21, 2017, for \$680.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was posted to the tenants' door at 7:00 pm on July 5, 2017. The 10 Day Notice states that Tenant T.M. 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 Tenant T.M. was deemed served with the 10 Day Notice on July 8, 2017, three days after its posting.

I find that Tenant T.M. was obligated to pay the monthly rent in the amount of \$680.00, as per the tenancy agreement.

I accept the evidence before me that Tenant T.M. has failed to pay the rent owed in full by July 13, 2017, 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 Tenant T.M. 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, July 21, 2017.

Therefore, I find that the landlords are entitled to an Order of Possession for unpaid rent as of July 24, 2017.

I note that the landlords have received two payments of \$340.00 dated July 18, 2017 and July 21, 2017. Although Tenant T.M. has failed to pay the rent in full within the 5 days granted under section 46(4) of the *Act*, I do find that the landlords have received full payment of the amount indicated on the 10 Day Notice.

For this reason, the monetary portion of the landlords' application is dismissed with leave to reapply.

Conclusion

I grant an Order of Possession to the landlords effective **two days after service of this Order** on Tenant T.M. Should Tenant T.M. and any other occupant 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: August 02, 2017

Residential Tenancy Branch