



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, FFL

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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 10, 2018, the landlord served the Direct Request Proceeding documents to the tenant by personal delivery. The Proof of Service of the Notice of Direct Request Proceeding was signed by the tenant and the proof of service indicates that the delivery to the tenant was witnessed by an individual named “Y.S.” Based on the written submission of the landlord and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on November 10, 2018, the date the documents were personally delivered to the tenant.

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*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on January 31, 2017, indicating a monthly rent of \$1,450.00, due on the first day of the month for a tenancy commencing on February 01, 2017;
- A copy of Notice of Rent Increase forms showing the rent being increased from \$1,450.00 to the current monthly rent amount of \$1,508.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 02, 2018, for \$1,500.00 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 November 12, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally delivered to tenant at 8:15 p.m. on November 02, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

I have reviewed all documentary evidence and in accordance with section 88 of the *Act*, I find that the tenant was duly served with the 10 Day Notice on November 02, 2018, the date that the 10 Day Notice was personally delivered to tenant.

I find that the tenant was obligated to pay the monthly rent in the amount of \$1,508.00 as per the tenancy agreement and Notice of Rent Increase forms. However, since the landlord has only requested unpaid rent in the amount of \$1,500.00 in the 10 Day Notice, landlord's request for unpaid rent herein shall be limited to \$1,500.00.

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, November 12, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary award in the amount of \$1,500.00, the amount claimed by the landlord, for unpaid rent owing for November 2018 as of November 8, 2018.

As the landlord has been successful in this application, I also allow them to recover their \$100.00 filing fee.

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.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1,500.00 for rent owed for November 2018 and the amount of \$100.00 for the recovery of the filing fee. The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: November 14, 2018

Residential Tenancy Branch