



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

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 two signed Proof of Service of the Notice of Direct Request Proceeding forms, which declare that on November 20, 2018, the Landlord sent the Tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The Landlord provided two copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the Landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Direct Request Proceeding documents on November 25, 2018, the fifth day after their registered mailing.

The landlord submitted two signed Proof of Service of the Notice of Direct Request Proceeding forms which declare that on July 16, 2018, the landlord served each of the above-named tenants with the Notice of Direct Request Proceeding via registered mail. The landlord provided two copies of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Section 90 of the *Act* determines that a document served in this manner is deemed to have been received five days after service.

Based on the written submissions of the landlord, and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on July 16, 2018, 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*?

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 Tenants on August 19, 2018, indicating a monthly rent of \$1,950.00, due on the first day of each month for a tenancy commencing on September 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated November 5, 2018, for \$1,950.00 in unpaid rent for November 2018. 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 November 15, 2018;
- A copy of a Proof of Service Notice to End Tenancy form, which indicates that the 10 Day Notice was sent to the Tenants by registered mail to the rental unit on November 5, 2018. The Landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. The Landlord also said he posted the Notice to the door of the rental unit on November 5, 2018; however, although he said he took a photo of this, he did not include a photograph in the evidence he submitted; 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 sections 88 and 90 of the *Act*, I find that the Tenant was deemed served with the 10 Day Notice on November 10, 2018, five days after it was sent to the rental unit by registered mail.

I find that the Tenants were obligated to pay the monthly rent in the amount of \$1,950.00, as per the tenancy agreement.

I accept the evidence before me that the Tenants 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 sections 46(5) and 53(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, November 20, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession based on the November 05, 2018 10 Day Notice served to the tenants for unpaid rent owed by November 01, 2018.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 26, 2018

Residential Tenancy Branch