



Dispute Resolution Services

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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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 22, 2019, the landlord served the tenant “PH” with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The personal service was confirmed as the tenant PH acknowledged receipt of the Notice of Direct Request Proceeding by signing the Proof of Service form. The Proof of Service form also establishes that the service was witnessed by “SP” and a signature for “SP” is included on the form.

Based on the written submissions of the landlord, and in accordance with section 89 of the *Act*, I find that the tenant “PH” has been duly served with the Direct Request Proceeding documents on July 22, 2019.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding form which declares that on July 22, 2019, the landlord served the tenant “SD” with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. 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 tenant SD has been deemed served with the Direct Request Proceeding documents on July 27, 2019, 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, indicating a monthly rent of \$1,800.00, due on the first day of the month for a tenancy commencing on November 01, 2018;
- A Direct Request Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlord establishes that there is unpaid rent due by June 01, 2019 in the amount of \$4,000.00, comprised of the balance of unpaid rent owed for the months encompassing the period of April 2019 to June 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) dated June 24, 2019, which the landlord states was served to the tenants on June 24, 2019, for \$4,000.00 in unpaid rent due on June 01, 2019, with a stated effective vacancy date of July 03, 2019; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice to the tenants by way of personal service via hand-delivery to the tenant "PH" on June 24, 2019. The Proof of Service form establishes that the service was witnessed by "DS" and a signature for DS is included on the form.

The Notice restates section 46(4) of the *Act* which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence provided by the landlord and find that in accordance with section 88 of the *Act* the tenants were duly served with the Notice on June 24, 2019.

I find that the tenants were obligated to pay monthly rent in the amount of \$1,800.00, as established in the tenancy agreement. I accept the evidence before me that the tenants have failed to pay the balance of rental arrears due by June 01, 2019, in the amount of

\$4,000.00, comprised of the balance of unpaid rent owed for the months comprising the period of April 2019 to June 2019.

I accept the landlord's undisputed evidence and find that the tenants did not pay the rent owed in full within the five days granted under section 46 (4) of the *Act* and did not apply to dispute the Notice within that five-day period.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the Notice, July 04, 2019, pursuant to section 53(2) of the *Act*.

Therefore, I find that the landlord is entitled to an Order of Possession based on the June 24, 2019 Notice served to the tenants for unpaid rent owed by June 01, 2019, as claimed on the landlord's Application for Dispute Resolution by Direct Request .

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) 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: July 31, 2019

Residential Tenancy Branch