



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX LITTLE OAK REALTY
and [tenant name suppressed to protect privacy]

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 filed by the Landlord for an order of possession for unpaid rent and to recover the filing fee.

The Landlord submitted signed Proof of Service Notice of Direct Request Proceeding documents which declare that the Landlord served each of the Tenants with a Notice of Dispute Resolution Proceeding and supporting documents by registered mail on January 27, 2022. Service in this manner was supported by Canada Post registered mail receipts which confirmed the date and time of purchase and included the tracking number. These receipts were dated January 26, 2022. I accept this is a clerical error and that the Notice of Dispute Resolution Proceeding and supporting documents were served on the Tenants on January 26, 2022, as indicated on the receipts. Pursuant to sections 89 and 90 of the Act, I find these documents are deemed to have been received by the Tenants on January 31, 2022, five days after they were mailed.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the Act?
2. Is the Landlord entitled to recover the filing fee pursuant to section 72 of the Act?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord submitted the following relevant evidentiary material:

- A copy of a signed residential tenancy agreement indicating a monthly rent in the amount of \$1,600.00 due on the first day of each month, for a tenancy commencing on November 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 15, 2021, for \$3,200.00 in unpaid rent (the 10 Day Notice). 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 December 25, 2021;
- A copy of a signed Proof of Service Notice to End Tenancy document which indicates that the 10 Day Notice was served on the Tenants by attaching a copy to the door of the Tenants' residence on December 16, 2021, which service was witnessed by E.L.;
- A copy of a Direct Request Worksheet showing the rent due and paid during the relevant period; and
- A copy of an account Statement for the period from January 20, 2021 to January 1, 2022.

Analysis

I have reviewed all documentary evidence and I find that the Tenants were obligated to pay monthly rent in the amount of \$1,600.00.

In accordance with sections 88 and 90 of the Act, I find that the Tenants are deemed to have received the 10 Day Notice on December 19, 2021, three days after it was attached to the Tenants' door.

I find the 10 Day Notice complies with the form and content requirements of section 52 of the Act.

I accept the evidence before me that the Tenants failed to pay the rent owed in full and did not dispute the 10 Day Notice within five days after receipt in accordance with section 46(4) of the Act.

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 December 29, 2021, the corrected effective date of the 10 Day Notice.

Therefore, I find the Landlord is entitled to an order of possession which will be effective two days after it is served on the Tenants.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application.

Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenants. The order of possession must be served on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$100.00 in recovery of the filing fee. The monetary order must be served on the Tenants. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: February 16, 2022

Residential Tenancy Branch