



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR

Preliminary Matters

I note that the rental address on the Application for Dispute Resolution submitted by the landlords is slightly different than the rental address shown on the tenancy agreement, the 10 Day Notice, and all other documents submitted with the Application. Section 64(3)(c) of the *Act* allows me to amend the application to match the tenancy agreement and the 10 Day Notice, which I have done.

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 to obtain an Order of Possession based on unpaid rent and to obtain monetary compensation for unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlords on April 8, 2022.

The landlords submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on April 21, 2022, the landlords sent each tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on April 21, 2022 and are deemed to have been received by the tenants on April 26, 2022, the fifth day after their registered mailing.

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

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 landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenants on April 19, 2020, indicating a monthly rent of \$1,950.00, due on the first day of each month for a tenancy commencing on May 1, 2020
- A copy of a Notice of Rent Increase forms showing the rent being increased from \$1,950.00 to the monthly rent amount of \$1,979.25
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 8, 2022, for \$9,884.85 in unpaid rent. 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 February 19, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants' door at 2:00 pm on February 8, 2022
- A Direct Request Worksheet

Analysis

I have reviewed all documentary evidence and I find that the tenants were obligated to pay the monthly rent in the amount of \$1,979.50, as per the tenancy agreement and the Notice of Rent Increase.

In accordance with sections 88 and 90 of the *Act*, I find that the 10 Day Notice was served on February 8, 2022 and is deemed to have been received by the tenants on February 11, 2022, three days after its posting.

I accept the evidence before me that the tenants have 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 tenants are 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, February 21, 2022.

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

The Direct Request Worksheet must clearly show all months for which the tenants still owe rent in order to substantiate the landlord's claim. I find that the monthly breakdown of rent owing on the Direct Request Worksheet is incomplete as the amount of rent owing for August 2021 is listed as \$5,813.74 and not the \$1,950.00 established in the tenancy agreement.

I find I am not able to confirm which months are owing and for this reason the landlords' application for a Monetary Order for unpaid rent 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 the tenant(s). 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.

I dismiss the landlords' application for a Monetary Order for unpaid rent 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: May 17, 2022

Residential Tenancy Branch