

## **DECISION**

### **Dispute Codes**

OPR, MNR, MNSD, FF

### **Introduction**

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 15, 2009, the landlords served the tenant with the Notice of Direct Request Proceeding via registered mail. The landlord received the Direct Request Proceeding package on May 14, 2009, and initiated service on May 15, 2009. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served five days after mailing.

Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

### **Issue(s) to be Decided**

The issues to be decided are whether the landlords are entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*. I have reviewed all documentary evidence submitted by the landlord.

### **Background and Evidence**

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant
- A copy of a residential tenancy agreement which was signed by the parties on November 14, 2006 indicating \$850.00 per month rent due on first day of the month, a security deposit and pet deposit of \$525.00 was paid on November 13, 2006

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 9, 2009 with an effective vacancy date of May 20, 2009 for \$700.00 in unpaid rent

Documentary evidence filed by the landlord indicates that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent by personal service on May 9, 2009. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days. I accept that the tenant has been served with notice to end tenancy effective on May 9, 2009.

### Analysis

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 Notice.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation under section 67 in the amount of **\$750.00** comprised of \$700.00 rent owed and the \$50.00 fee paid by the Landlord for this application. I order that the landlord may retain the deposit and interest held of **\$541.23** in partial satisfaction of the claim and grant an order for the balance due of **\$208.77**. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) 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: May 21, 2009.

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Dispute Resolution Officer