



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR, 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 and a monetary order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding document which declares that at 2045 hours on June 24, 2009 he served the female Tenant with the Notice of Direct Request Proceeding at the rental unit address.

Section 88 of the Act determines the method of service for documents. The Landlord has requested an Order of possession against both Tenants. As both Tenants are named on the tenancy agreement I have determined that both parties have been sufficiently served with the portion of the Application for Dispute Resolution relating to section 55 of the Act, requesting an Order of Possession.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent and the fee for filing this Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

I have reviewed the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the female Tenant



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- A copy of a residential tenancy agreement between the Tenants and the Landlord, which indicates that the tenancy began on June 01, 2008; that the rent is \$1,400.00 per month; that the rent is due on the first day of each month; and that the Tenants paid a security deposit of \$700.00 on June 01, 2009
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed on June 17, 2009, which indicates that the Tenants must vacate the rental unit on June 27, 2009 because they failed to pay rent of \$1,680.00 that was due on June 01, 2009. The Notice declares that the tenancy will end on the effective date of the Notice unless the Tenants pay the rent or apply for Dispute Resolution within five days of the date they are deemed to have received the Notice.
- A copy of a Proof of Service of the 10 Day Notice for Unpaid Rent, in which the Landlord declared that he personally served the female Tenant with the Notice to End Tenancy on June 17, 2009. This Proof of Service is signed by the Tenant to acknowledge that she received the Notice to End Tenancy.

In the Application for Dispute Resolution the Landlord stated the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on June 17, 2009. In the Application for Dispute Resolution, the Landlord stated that the Tenants owe all of the rent from June, a portion of the rent from March, and a portion of the rent from May, for a total of \$1,930.00.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was served on the female Tenant on June 17, 2009.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants had not paid all of the rent that was due on June 01, 2009 and that the Tenants had not paid the rent that was due on that date by the time the Landlord filed the Application for Dispute Resolution.

I have no evidence to show that the Tenants filed an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy or that they paid all of the rent that was due on June 01, 2009 after being served with the Notice to End Tenancy. Pursuant to section 46(5) of the *Act*, I therefore find that the Tenants accepted that the tenancy ended ten days after they are deemed to have received the Notice. On this basis, I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord submitted conflicting details regarding the amount of rent that was due on June 01, 2009. On the Notice to End Tenancy the Landlord declared that



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the outstanding rent that was due on June 01, 2009 was \$1,680.00 but on the Application for Dispute Resolution he declared that there is outstanding rent of \$1,930.00. Although I accept that some rent is due, I find there is insufficient evidence to determine the amount that is due and I cannot award a monetary Order on the basis of the information provided. I therefore dismiss the Landlord's claim for compensation for unpaid rent, with leave to reapply on this specific issue.

Conclusion

I find that the Landlord is entitled to an Order of Possession effective two days after service on the Tenants. This Order may be served on the Tenants, filed in the Supreme Court, and enforced as an order of that Court.

I find that the Landlord is entitled to monetary compensation of \$50.00 in compensation for the fee paid by the Landlord for this application. This Order may be served on the Tenant, 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: July 09, 2009.

Dispute Resolution Officer