



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 18, 2009 the landlord served the tenant with the Notice of Direct Request Proceeding by hand.

Based on the written submissions of the landlord, I find that the tenant has been 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 and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*. The landlords had also applied for a monetary order for outstanding rent; however they have now withdrawn that claim because on August 17, 2009 they accepted the full amount of the rent outstanding, for use in occupancy only.

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 January 20, 2009 for a tenancy beginning February 1, 2009 for the monthly rent of \$700.00 due on 1st of the month and a security deposit of \$350.00 was paid on January 20, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 8, 2009 with an effective vacancy date of August 18, 2009 due to \$725.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the rent owed for the month of August 2009 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent by hand on August 8, 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.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlords. The effective date of the notice is August 18, 2009. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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.



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Conclusion

I find that the landlord is entitled to an Order of Possession 1 p.m. August 31, 2009. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I further ordered that the respondent bear the \$ 50.00 cost of the filing fee paid for this hearing.

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: August 24, 2009.

Dispute Resolution Officer