

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing proceeded 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's Agent for an Order of Possession, a Monetary Order, and to recover the cost of the filing fee from the Tenants for this application.

The Landlord's Agent submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 11, 2009 the Landlord's Agent served each Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post Receipt numbers were submitted in the Landlord's documentary evidence. The Tenants are deemed to be served the hearing documents on September 16, 2009, the fifth day after they were mailed pursuant to section 90 of the *Residential Tenancy Act*. Based on the written submissions of the Landlord, I find that the Tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord's Agent is entitled to an Order of Possession for unpaid rent; to a Monetary Order for unpaid rent; and to recover the filing fee from the Tenants for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlord's Agent submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenants;

- A copy of a residential tenancy agreement which was signed by the Landlord and Tenants on April 27, 2009 for a fixed term tenancy beginning on June 1, 2009 and set to expire on May 31, 2010 for the monthly rent of \$1,275.00 due on 1st of the month and a deposit of \$637.50 was paid on or before June 1, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 22, 2009 with an effective vacancy date of September 11th, 2009 due to \$1,275.00 in unpaid rent; and

Documentary evidence filed by the Landlord's Agent indicates that the Tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted on the Tenants' door on August 22, 2009 at 3:05 p.m. in the presence of a witness.

#### Analysis

**Order of Possession** - I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlord's Agent. The notice is deemed to have been received by the Tenants on August 25, 2009, three days after it was posted to the Tenant's door, and the effective date of the notice is September 7, 2009 pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenants have 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 Tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

**Monetary Order** – I find that the Landlord's Agent is entitled to a monetary claim and that the Landlord's Agent is entitled to recover the filing fee from the Tenants as follows:

Unpaid Rent for August 2009	\$1,275.00
Filing fee	50.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD</b>	<b>\$1,325.00</b>

I hereby order that the Tenants' security deposit is to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlord's Agent is entitled to an Order of Possession effective **two days after service on the Tenants**. This order must be served on the Respondent Tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY FIND in favor of the Landlord's Agent's monetary claim. A copy of the Landlord's Agent's decision will be accompanied by a Monetary Order for \$1,325.00. The order must be served on the respondent Tenants and is enforceable through the Provincial Court 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: September 16, 2009.

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Dispute Resolution Officer