

## **DECISION**

### Dispute Codes

OPR, FF

### Introduction

This matter proceeded by way of 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 landlord for an Order of Possession and to recover the filing fee.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 24, 2009, the landlord served the tenant with the Notice of Direct Request Proceeding via posting on the door. Section 90 of the Act determines that a document is deemed to have been served three days after posting on the door.

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

### Issue(s) to be Decided

The issues to be decided are whether the landlord is 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 46, 55, 67, and 72 of the Act.

### 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 1, 2008, indicating a monthly rent of \$675.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 14, 2009, with a stated effective vacancy date of September 27, for \$675.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on September 14, 2009. The Act deems the tenant was served on September 17, 2009.

The Notice states that the tenant had five days to pay the rent in full 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 from the date of service.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 17, 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. Therefore, I find that the landlord is entitled to an Order of possession, a monetary Order for unpaid rent, and the application fee cost.

### Conclusion

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

I find that the landlord is entitled to the \$50.00 fee paid for this application, and may keep \$50.00 from the security deposit held.

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: October 01, 2009.

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Dispute Resolution Officer