

## **DECISION**

Dispute Codes      OPR MNR

### 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 and his Agent for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 17, 2010 at 3:46 p.m. the Agent served the Tenant with notice of Direct Request Proceeding via registered mail. Canada Post receipts were provided in the Landlords' evidence and the Tenant is deemed to have been served the hearing documents on February 22, 2010, five days after they were mailed in accordance with section 90 of the Act. Based on the written submissions of the Landlords, I find that the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

### Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession for unpaid rent and to a Monetary Order for unpaid rent, pursuant to sections, 55, of the *Residential Tenancy Act (Act)*?

### Background and Evidence

I have carefully reviewed the following documentary evidence submitted by the Landlords:

- 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 all parties on July 7, 2008 for a month to month tenancy effective July 1, 2008, for the monthly rent of \$1,200.00 due on 1st of the month, and no security deposit was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 2, 2010 with an effective vacancy date of February 15, 2010 due to \$1,200.00 in unpaid rent.

Documentary evidence filed by the Landlords indicates that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent in February 2, 2010, at 11:05 p.m. when it was posted to the Tenant's door in the presence of a witness.

### Analysis

**Order of Possession** – Upon review of the evidence I accept that the Tenant has been served with notice to end tenancy as declared by the Landlords. The notice is deemed to have been received by the Tenant on February 5, 2010, three days after it was posted to the Tenant's door, and the effective date of the notice is February 15, 2010, pursuant to section 90 of the *Act*. 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 and I hereby award the Landlords an Order of Possession.

**Monetary Order** – I find that the Landlords are entitled to a monetary claim for the February 2010 unpaid rent in the amount of \$1,200.00.

### Conclusion

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

A copy of the Landlords' decision will be accompanied by a Monetary Order for **\$1,200.00**. The order must be served on the respondent Tenant 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: February 22, 2010.

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Dispute Resolution Officer