

DECISION

Dispute Codes OPR 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 for an Order of Possession for unpaid rent and a request to recover the cost of the filing fee from the Tenants for this application.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 15, 2010, the Landlord 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 March 20, 2010, 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

Is the Landlord entitled to an Order of Possession for unpaid rent pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

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

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy beginning November 1, 2009 and switching over to a month to month tenancy after October 31, 2010 for the monthly rent of \$1,350.00 due on 1st of the month and a deposit of \$675.00 was paid on or before October 26, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, March 3, 2010, with an effective vacancy date of March 16, 2010 due to \$1,375.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent via registered mail on March 3, 2010.

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. The notice is deemed to have been received by the Tenants on March 8, 2010, five days after it was mailed, and the effective date of the notice is March 18, 2010, 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. Therefore I approve the Landlord's request for an Order of Possession.

As the Landlord has been successful with their application I hereby award recovery of the \$50.00 filing fee to the Landlord.

Conclusion

I HEREBY FIND that the Landlord 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.

A copy of the Landlord's decision will be accompanied by a Monetary Order for \$50.00 for recovery of the filing fee. 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: March 24, 2010.

Dispute Resolution Officer