

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 for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 10, 2010, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipt numbers were provided in the Landlord's documentary evidence. The Tenant is deemed to have been served the Direct Request Proceeding documents on June 15, 2010, the fifth day after they were mailed pursuant section 90 of the *Residential Tenancy Act*. 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

Is the Landlord is entitled to an Order of Possession and a Monetary Order under section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

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

- A copy of a residential tenancy agreement which was signed by the Tenant and the Landlord on August 14, 2006, for a month to month tenancy beginning September 1, 2006, for the monthly rent of \$1,000.00 due on 1st of the month, and a security deposit of \$500.00 was paid by the Tenant; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 2, 2010, with an effective vacancy date of June 12, 2010 due to \$2,000.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally to the Tenant on June 2, 2010, at 4:00 p.m. The Tenant signed the proof of service form acknowledging receipt of the 10 Day Notice.

Analysis

Order of Possession - 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 June 2, 2010, and the effective date of the notice is June 12, 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 therefore I grant the Landlord an Order of Possession.

Monetary Claim –The Landlord has listed \$2,000.00 for unpaid rent on his application for dispute resolution listing \$920.00 owing for May 2010 and \$1,080.00 for June 2010. The Landlord has indicated on the application that the rent has been increased since the onset of the tenancy however the Landlord did not provide evidence to substantiate the amount and date of the rent increases to prove how they have come to claim the monthly rent is now \$1,080.00 per month. Based on the aforementioned I find that the

Landlord's monetary claim does not meet the criteria to be reviewed through a direct request process.

I find that a conference call hearing is required in order to determine the details of the Landlord's monetary claim. Notices of Reconvened Hearing are enclosed with this decision for the Applicant Landlord and are required to be served to the Respondent Tenant by the Landlord.

Conclusion

I HEREBY FIND that a conference call hearing is required in order to determine the merits of this Application for Dispute Resolution. Notices of Reconvened Hearing are enclosed with this decision for the Landlord.

A copy of the Notice of Reconvened Hearing, this Decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenant, in accordance with section 88 of the *Act*, within **three (3) days** of receiving this decision.

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: June 16, 2010.

Dispute Resolution Officer