

DECISION

Dispute Codes OPR MNR MNSD 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, a Monetary Order for unpaid rent, to keep the security deposit and to recover the cost of the filing fee.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 12, 2010, the Landlord served each Tenant with the Notice of Direct Request Proceeding, in person at the rental unit. Each Tenant signed the respective proof of service form acknowledging receipt of the hearing package. 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 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 each Tenant; and
- A copy of a residential tenancy agreement which was signed by the Tenants and the Landlord on April 30, 2007, for a fixed term tenancy beginning May 1, 2007, and then switching to a month to month tenancy after April 30, 2008, for the

monthly rent of \$750.00 due on 1st of the month, and a security deposit of \$375.00 plus a pet deposit of \$375.00 was paid by the Tenants on April 7, 2007; 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 \$825.00 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 when it was posted to the Tenants' door on June 2, 2010, at 5:15 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. The notice is deemed to have been received by the Tenants on June 5, 2010, three days after it was posted to the door, and the effective date of the notice is June 15, 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 and therefore I grant the Landlord an Order of Possession.

Monetary Claim –The Landlord has filed through the direct request process and has applied for unpaid rent, to keep the security deposit, and to recover the cost of the filing fee. 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 under section 55(4) of the *Act*. Therefore 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 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.

I HEREBY FIND that a conference call hearing is required in order to determine the merits of the Landlord's application for a Monetary Order. 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