

DECISION

Dispute Codes OPR, & MNR

Introduction

This matter was conducted 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 and a monetary order due to unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 29, 2010 the landlords served the tenants with the Notice of Direct Request Proceeding by hand.

Based on the written submissions of the landlords, I find that the tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55, & 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenants;

- A copy of a residential tenancy agreement which was signed by the parties on September 15, 2009 for a tenancy beginning October 01, 2009 for the monthly rent of \$850.00 due on the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 17, 2010 with an effective vacancy date of June 26, 2010 due to \$900.00 in unpaid rent.

Documentary evidence filed by the landlord(s) indicates that the tenant(s) had failed to pay the rent owed for the month of June and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenant's rental unit on June 17, 2010 and therefore is deemed served three days later on June 20, 2010.

The Notice states that the tenant(s) had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant(s) did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlords. The notice is deemed to have been received by the tenant(s) on June 20, 2010 and the effective date of the notice is amended to June 30, 2010 pursuant to section 53 of the *Act*.

The tenancy agreement indicates rent is \$850.00 per month whereas the landlord's application indicates rent owed is \$900.00 for June. Where rent has been legally increased since the tenancy commenced it is necessary for the landlord to provide evidence of such rent increases to substantiate rent owing is greater than that indicated in the tenancy agreement. Therefore, I will only accept the evidence before me that the tenants have failed to pay the rent owed of \$850.00 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.

Conclusion

I find that the landlords are entitled to an Order of Possession effective **two days after service on the tenant(s)**. This order must be served on the tenant(s) and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlords are entitled to monetary compensation pursuant to section 67 in the amount of **\$850.00** comprised for rent owed. This order must be served on the tenant(s) and may be filed in the Provincial Court (Small Claims) and enforced 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: July 07, 2010.

Dispute Resolution Officer