

## **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 Landlords 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 July 20, 2010 the Landlords served each Tenant with the Notice of Direct Request Proceeding in person at the rental unit at 6:05 p.m. Based on the written submissions of the Landlords, I find that each 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 and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

### Background and Evidence

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

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties on October 21, 2009 for a month to month tenancy beginning November 1, 2009, for the monthly rent of \$950.00 due on 1st of the month and a deposit of \$475.00 was paid on November 1, 2009; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, July 10, 2010 with an effective vacancy date of July 20, 2010 due to \$1,170.00 in unpaid rent. (\$220.00 from June 2010 and \$950.00 from July 2010)

Documentary evidence filed by the Landlords indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the Tenants' door on July 10, 2010 at 6:05 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 Landlords. The notice is deemed to have been received by the Tenants on July 13, 2010, three days after it was posted to their door, and the effective date of the notice is July 23, 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 I hereby grant the Landlords an Order of Possession.

**Monetary Order** – The evidence supports that the Tenants have failed to pay a portion of the June 1, 2010 rent and all of the July 1, 2010 rent, in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlords' request for a Monetary Order as follows:

Unpaid Rent which was due June 1, 2010	\$220.00
Unpaid Rent which was due July 1, 2010	950.00
<b>TOTAL AMOUNT DUE TO THE LANDLORD</b>	<b>\$1,170.00</b>

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

The Landlords have claimed \$118.00 as unpaid utilities and has failed to provide evidence that the utility charges are unpaid for more than 30 days after the Landlords have given the Tenants a written demand for payment of the utilities, pursuant to section 46 of the *Residential Tenancy Act*. Based on the foregoing I dismiss the Landlords' claim for \$118.00 in unpaid utilities without leave to reapply.

### Conclusion

I HEREBY FIND that the Landlords are 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 in favor of the Landlords' monetary claim. A copy of the Landlords' decision will be accompanied by a Monetary Order for **\$1,170.00**. 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: July 23, 2010.

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Dispute Resolution Officer