



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

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 August 20, 2010 the landlords served each tenant with the Notice of Direct Request Proceeding by hand.

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

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:



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- 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 the parties on December 1, 2007 for a tenancy beginning December 1, 2007 for the monthly rent of \$1275.00 due on 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 13, 2010 with an effective vacancy date of August 13, 2010 due to \$2720.00 in unpaid rent.

Documentary evidence filed by the landlord(s) indicates that the tenant(s) had failed to pay the rent owed for the months of July 2010 in August 2010 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent by hand on August 13, 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. 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.

Conclusion



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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 section 67 in the amount of \$2550.00 comprised of \$1275.00 for July 2010 rent and \$1275.00 for August 2010 rent. 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.

The applicants had claimed \$1345.00 for July 2010 rent, and \$1375.00 for August 2010 rent, however the tenancy agreement states that rent is \$1275.00 per month, and the applicants have provided no evidence of a legal rent increase. Therefore I have only allowed \$1275.00 per month for a total of \$2550.00 and the remainder of the monetary claim is dismissed with leave to reapply.

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: September 08, 2010.

Dispute Resolution Officer