

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 October 18, 2010 the Landlord served each Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipts were submitted in the Landlords' evidence. 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 July 2, 2010, for a month to month tenancy beginning August 1, 2010, for the monthly rent of \$1,170.00 due on 1st of the month and a deposit of \$585.00 was paid on July 2, 2010; and

- A letter of authorization appointing the applicant to act as an Agent for the Landlord; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 2, 2010 with an effective vacancy date of October 14, 2010 due to \$1,170.00 in unpaid rent.

Documentary evidence filed by the Landlords indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on October 2, 2010 at 9:00 a.m. when it was put through the mail slot on the Tenants' door in the presence of a witness, in accordance with section 88 (f) of the Act.

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 October 5, 2010, three days after it was placed through the mail slot on the Tenants' door, and the effective date of the notice is October 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 I hereby grant the Landlord an Order of Possession.

Monetary Order – The evidence supports that the Tenants have failed to pay the October 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 October 1, 2010	\$1,170.00
TOTAL AMOUNT DUE TO THE LANDLORD	\$1,170.00

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

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: October 25, 2010.

Dispute Resolution Officer