



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

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 Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 27, 2010 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Incomplete Canada Post receipts were submitted in the Landlord's evidence. The Landlord also provided a copy of a Canada Post website print out which indicates the package was actually mailed on October 14, 2010 not October 27, 2010 and the Tenant signed for delivery of the package on October 27, 2010. Based on the written submissions of the Landlord, I find that the Tenant was served with the Dispute Resolution Direct Request Proceeding documents, in accordance with the *Residential Tenancy Act* (Act).

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to a Monetary Order?

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 the Tenant with a copy of the Canada Post website tracking printout;

- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy beginning December 1, 2003 and switches to a month to month tenancy after March 31, 2003, for the monthly market rent of \$650.00 due on 1st of the month; and
- A memo issued by the current Landlord which indicates they acquired the tenancy from the previous Landlord, that the Tenant refused to sign a new agreement with this Landlord, that the Tenant had previously qualified for a subsidized rent of \$215.00 per month which reverted to the market rent of \$650.00 effective October 1, 2010, and which clarified the current outstanding rent is \$1,510.00 which is comprised of \$215.00 for each of the four months June, July, August, and September plus \$650.00 for October; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, September 15, 2010 with an effective vacancy date of October 6, 2010 due to \$2,741.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on September 21, 2010 and delivery was signed for by the Tenant on September 27, 2010.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice was received by the Tenant on September 27, 2010. I accept the evidence before me that the Tenant has 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 Tenant is 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 Tenant failed to pay rent in full 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 Landlord's request for a Monetary Order as follows:

Unpaid Rent (4 x \$215 for June, July, Aug, Sep) + \$650.00 Oct	\$1,510.00
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Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY FIND in favor of the Landlord's monetary claim. A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$1,510.00**. The order must be served on the respondent Tenant 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: November 16, 2010.

Dispute Resolution Officer