



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 landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 10, 2010 the landlord served the tenant with the Notice of Direct Request Proceeding by posting it to the tenants door. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the third day after was posted to the door.

With regard to the landlord application for a Monetary Order for unpaid rent; sections 88 and 89 of the Act determine the method of service for documents. The Landlord has applied for a Monetary Order which requires that the landlord serve the tenant as set out under Section 89(1). As the landlord posted the Notice of Direct Request Proceeding to the tenants' door, this method of service is not acceptable under section 89(1) of the Act and will not be dealt with at this Proceeding.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents in a manner acceptable to deal with an Order of Possession.



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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 tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 12, 2009 for a tenancy beginning January 15, 2009 for the monthly rent of \$550.00 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, November 02, 2010 with an effective vacancy date of November 12, 2010 due to \$550.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of November, 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent by hand on November 02, 2010.

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

Analysis

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 is deemed to have been received by the tenant on November 02, 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*.



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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.

Conclusion

I 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 tenant(s) and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlords' application for a Monetary Order 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: November 18, 2010.

Dispute Resolution Officer