



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DIRECT REQUEST DECISION

Dispute Codes

OPR, MNR

Introduction

The 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 and a monetary order for rental arrears.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 14, 2011 at 2:15 p.m. the landlord served the tenant with the Notice of Direct Request by registered mail. Under the Act a mailed item is deemed to be received in five days

Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession and a monetary Order for rental arrears pursuant to 55 and 67 of the *Residential Tenancy Act (the Act)*. I have reviewed all documentary evidence.

Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent indicating that the tenant had failed to pay rent owed of \$936.65 and a "Proof of Service" form stating that the Notice was served to the tenant by posting it on the door on December 22, 2010 at approximately 6:00 p.m. in front of a witness.

The purpose of serving documents under the Act is to notify the person of a failure to comply with the Act and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy and I find that the landlord has met this burden.

Analysis

Submitted into evidence was a copy of the tenancy agreement signed on July 1, 2008 showing rent set at \$919.650 per month and no security deposit paid. I find that although the landlord indicated in the Application for Direct Request that the accrued arrears were \$4,400.00, the Ten Day Notice to End Tenancy for Unpaid Rent dated December 22, 2010 indicated that the current arrears owed by the tenant as of that date were \$936.65. Based on the evidence, I find that the landlord's monetary claim in the application for dispute resolution was not consistent with the amount shown on the Notice to the tenant. Accordingly, I find the landlord is entitled to monetary compensation under section 67 in the amount of \$936.65 for unpaid rent.

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant has not paid all of the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts I find that the landlord is entitled to an Order of Possession.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the landlord a monetary order in the amount of \$936.65 . This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced 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: January 2011.

Residential Tenancy Branch