

## **DECISION**

**Dispute Codes:** OPR and MNR

### **Introduction**

This hearing was conducted as a Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the landlords for an Order of Possession and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 8, 2011, the landlords served the tenant with the Notice of Direct Request Proceeding in person.

Based on the written submission of the landlords, I find that the tenant has been served with the 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 for unpaid rent and a Monetary Order for the unpaid rent.

### **Background and Evidence**

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on February 5, 2010 indicating a monthly rent of \$1,000 due on the first day of the month and there was no security deposit;.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was served on the tenant in person on March 2, 2011 and set an end of tenancy date of March 11, 2011.

Documentary evidence filed by the landlords indicates that the tenant had failed to pay \$1,032 rent that was due on March 1, 2011.

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 from the date of service.

The landlord has requested a monetary claim in this application for the sum of \$1,032 for rent due on March 1, 2011.

## **Analysis**

I have reviewed all documentary evidence and accept that the tenant was served with Notice to End Tenancy as declared by the landlords.

I accept the evidence before me that the tenant failed to pay the full rent owed 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 which was March 11, 2011.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order for unpaid rent.

## **Conclusion**

I find that the landlords are entitled to an Order of Possession effective **two days after service** on the tenant. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlords are entitled to a Monetary Order pursuant to section 67 of the *Act* for \$1,032 in unpaid rent. 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.

The landlords remain at liberty to make application for any further losses as may be ascertained at the conclusion of the tenancy.

March 16, 2011.