



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, FF

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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 21, 2011 the landlord served the male tenant with the Notice of Direct Request Proceeding via registered mail and on February 21, 2011 the landlord served the female tenant with the Notice of Direct Request Proceeding by personal delivery. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the fifth day after it was sent by registered mail or February 26, 2011 for the male tenant and on the day it was personal delivered or February 21, 2011 for the female tenant.

Based on the written submissions of the landlord, I find that the tenants have been 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 for unpaid rent and a monetary Order for unpaid rent, pursuant to sections 55 and 67 and of the *Residential Tenancy Act (Act)*.

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 tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 19, 2010 , for a 1 year tenancy beginning February 1, 2010, for the monthly rent of \$600.00 due on 1st of the month and a security deposit of \$300.00 was paid on ,January 19, 2010; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 7, 2011 with an effective vacancy date of February 7, 2011 due to \$1,800.00 in unpaid rent. Section 53 of the Act says incorrect effective dates can be changed to the correct effective vacancy date by the Act. The effective vacancy date is changed to February 17, 2011.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay the rent owed for the months of December, 2010 of \$600.00, January, 2011 of \$600.00 and February, 2011 for \$600.00. The tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery on February 7, 2010 at 10:00 a.m. and the service of the Notice to End Tenancy was witnessed.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent nor did the tenants apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on February 7, 2011, and the effective date of the notice is amended to February 17, 2011 pursuant to section 53 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.

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 tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of **\$1,800.00**. This order must be served on the tenants 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*.

Residential Tenancy Branch