



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 June 17, 2011 the Landlord served the Tenant with the Notice of Direct Request Proceeding via courier because of the current labour dispute with Canada Post. Courier receipts were submitted in the Landlord's evidence. Based on the written submissions of the Landlord, I find that the Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

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 each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties on January 31, 2011; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 2, 2011 with an effective vacancy date of June 12, 2011 due to \$930.00 in unpaid rent.
- A notation on the application for dispute resolution that indicates the Landlord is seeking \$600.00 in unpaid rent for June and \$50.00 arrears.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the Tenant's door on June 2, 2011 at 3:00 p.m. in the presence of a witness.

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 is deemed to have been received by the Tenant on June 5, 2010, three days after it was posted to their door, and the effective date of the notice is June 15, 2011, pursuant to section 90 of the *Act*. 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 Tenants have failed to pay the June 1, 2011 rent in violation of section 26 of the Act which provides that a tenant must pay rent when it is due under the tenancy agreement. The Landlord issued a 10 Day Notice stating \$930.00 was unpaid for rent and has claimed \$600.00 for June and \$50.00 for arrears; however there was no tenant ledger provided in the evidence and there is insufficient evidence to support when payments were made and the actual balance owing. Therefore I find the Landlord's application for a monetary claim does not meet the requirements of the Direct Request process and it is dismissed with leave to reapply.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served on the Respondent Tenant.

The Landlord's monetary claim 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: June 29, 2011.

Residential Tenancy Branch