



Dispute Resolution Services

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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 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 August 26, 2011, at 12:00 p.m. the Landlord served the female Tenant with the Notice of Direct Request Proceeding via registered mail. Canada post receipts were submitted in the Landlord's evidence. Based on the written submissions of the Landlord, I find the female Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and 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 Landlords:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the female Tenant;
- A copy of a residential tenancy agreement which was signed by only the female Tenant and Landlord on January 24, 2011, for month to month tenancy beginning February , 2011. The monthly rent of \$800.00 is due on first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 16, 2011 with an effective vacancy date of August 26, 2011 due to \$1,250.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid in person to the female Tenant on August 16, 2011, at 11:00 a.m. The female Tenant signed the proof of service document to acknowledge receipt of the 10 Day Notice.

Analysis

I have reviewed all documentary evidence and note that the tenancy agreement was signed by only one Tenant; therefore I find the Landlord's application through the Direct Request process may only proceed against the one Tenant who signed the tenancy agreement, the female Tenant.

As per the aforementioned I find the Landlord's application against the second named Tenant, who did not sign the tenancy agreement, is dismissed without leave to reapply.

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 August 16, 2011, and the effective date of the notice is August 26, 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 Tenant has failed to pay rent of \$1,250.00 accumulated to August 31, 2011 in violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order of **\$1,250.00**.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

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 upon the Tenant.

A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$1,250.00**. This Order is legally binding and must be served upon the Tenant.

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: September 02, 2011.

Residential Tenancy Branch