



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding and dealt with an application by the landlord for an order of possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 20, 2011, the landlord personally served the tenant with the Notice of Direct Request Proceeding.

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

Issue(s) to be Decided

Is the landlord entitled to the requested orders?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of the tenancy agreement which was signed by the parties on July 27, 2011, indicating a monthly rent of \$1,400.00 due on the first day of the month; and
- A copy of the 10 Day Notice to End Tenancy dated October 14, 2011. The Notice does not have an effective date but states that the tenant has failed to pay rent in the amount of \$2,100.00.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was personally served with the 10 Day Notice to End Tenancy on October 14, 2011 at 11:55 a.m.

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.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with a notice to end tenancy as declared by the landlord.

The notice is deemed to have been received by the tenant on October 14, 2011.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act. In the present case the landlord did not indicate any effective date, I therefore find that the Notice effective date is October 24, 2011.

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. There is no evidence before me that the tenant disputed the Notice.

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; October 24, 2011.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid rent in the sum of \$2,100.00.

Conclusion

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and the Order 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 \$2,100.00 and I grant an Order in that amount. 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*.