



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 landlord 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 the landlords served the tenant with the Notice of Direct Request Proceeding sent by register mail on December 1, 2011.

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 landlords 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 13, 2011 indicating a monthly rent of \$850 due on the first day of the month and that a security deposit of \$425 was paid on January 15, 2011 and indicating a pet damage deposit of \$225 was paid but no date is entered;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was served in person on November 19, 2011 with an end of tenancy date of November 29, 2011.

Documentary evidence filed by the landlords indicates that the tenant had a rent shortfall from August 2011 of \$250 and failed to pay the \$850 rent due on November 1, 2011.

The Notice to End Tenancy 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 had requested a monetary claim in this application for the unpaid rent of \$1,100 comprised of the August 2011 \$250 rent shortfall and the November 2011 rent of \$850.

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 rent owed in full within the five 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 November 19, 2011.

Therefore, I find that the landlords are entitled to an Order of Possession and a Monetary Order for the 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 landlord is entitled to a Monetary Order pursuant to section 67 of the *Act* for the unpaid rent of \$1,100. 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 and the disposition of the security deposit remains to be dealt with in accordance with section 38 of the *Act*.

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: December 05, 2011.

Corrected: December 14, 2011

Residential Tenancy Branch