



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 14, 2011 at 2:00 p.m. the Landlord served the Tenants with the Notice of Direct Request Proceeding in person at the rental unit. Based on the written submissions of the Landlord, I find that the Tenants have 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 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 for a fixed term tenancy beginning November 1, 2008, and switching to a month to month tenancy after one year for the monthly rent of \$795.00 due on 1st of the month and a deposit of \$380.00 was paid; and
- A copy of a notice of rent increase indicating rent was \$815.00 as of November 1, 2009; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, December 2, 2011 with an effective vacancy date of December 12, 2011 due to \$1,280.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on December 2, 2011 at 5:30 p.m. when it was posted to the Tenants' door in the presence of a witness.

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 December 5, 2011, the third day after it was posted to the Tenants' door, and the effective date of the notice is December 15, 2011, pursuant to section 90 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 and I hereby grant the Landlord an Order of Possession.

Conclusion

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

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 16, 2011.

Residential Tenancy Branch