



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR

Introduction

This matter was conducted by way of 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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 24, 2012, the landlord personally served the tenant with the Notice of Direct Request Proceeding, at 11:30 a.m. at the rental unit.

Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

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 an Order of possession?

Background and Evidence

The landlord 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 21, 2011, indicating a monthly rent of \$775.00 due on or before the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 3, 2012, with a stated effective vacancy date of January 16, 2012, for \$775.00 in unpaid January, 2012, rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by

posting to the tenant's door on January 3, 2012, at 11 a.m. with a witness present. The Act deems the tenant was served on January 6, 2012.

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 notice to end tenancy as declared by the landlord.

The notice is deemed to have been received by the tenant on January 6, 2012.

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; January 16, 2012.

Therefore, I find that the landlord is entitled to an Order of possession.

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.

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: January 26, 2012.

Residential Tenancy Branch