

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 landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the landlord served the tenant with the Notice of Direct Request Proceeding sent by registered mail on January 26, 2012 which Canada Post tracking service records as delivered on January 27, 2012.

Based on the written submission of the landlord, 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 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 October 29, 2010 indicating a monthly rent of \$1,050 due on the first day of the month and that a security deposit of \$525 was paid on or about October 29, 2010.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was served by posting on the tenant’s door on January 9, 2012 with an end of tenancy date of January 23, 2012.

Documentary evidence filed by the landlord indicates that the tenant had a rent arrears accumulated from October 2011 of \$4,500. The landlords evidence records that a payment of \$1,050 was made on January 12, 2012 which was applied to the outstanding rent for October 2011, leaving an unpaid balance of \$3,450.

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 \$3,450 comprised of \$300 remaining owed for October 2011, \$1,050 for November 2011 rent, \$1,050 for December 2011 rent and \$1,050 for January 2012 rent.

Analysis

I have reviewed all documentary evidence and accept that the tenant was served with Notice to End Tenancy as declared by the landlord.

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 December 23, 2011.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent.

Conclusion

I find that the landlord is 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 \$3,450. 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 landlord remains 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: January 30, 2012.

Residential Tenancy Branch