



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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.

The landlord has not applied for 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 in person on February 16, 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.

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 31, 2012 indicating a monthly rent of \$800 due on the first day of the month and that a security deposit of \$400 was to be paid;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was served in person to the tenant on February 2, 2012 with an end of tenancy date of February 12, 2012.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the \$800 rent due on February 1, 2012.

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 and had not paid the rent at the time of the landlord's application which was beyond the five days.

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 February 12, 2012.

Therefore, I find that the landlord is entitled to an Order of Possession as requested.

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.

The landlord remains at liberty to make application for any monetary losses and 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: February 22, 2012.

Residential Tenancy Branch