



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

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 and a Monetary Order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 21, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided a Canada Post receipt and tracking number as evidence of service.

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 and monetary compensation for 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, including the registered mail receipt;
- A copy of a residential tenancy agreement which was signed by the parties on August 1, 2011, indicating a monthly rent of \$890.00 due on the 1st day of every month;
- A copy of the tenant's ledger account printed on February 15, 2012 indicating the rent cheque for January 2012 was returned NSF; an NSF charge of \$25.00 was posted to the tenant's account; and the tenant did not pay rent for February 2012;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 6, 2012 with a stated effective vacancy date of February 20, 2012, for \$1,805.00 in unpaid rent as of February 1, 2012; and,

- A copy of a Proof of Service of the 10 Day Notice indicating landlord personally served the 10 Day Notice upon the tenant on February 7, 2012 as evidence by the tenant's signature confirming receipt of the 10 Day Notice.

The 10 Day 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.

In filing this application the landlord is seeking to recover \$1,805.00 from the tenant.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with a 10 Day Notice to End Tenancy as declared by the landlord. I accept the evidence before me that the tenant has failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*. Accordingly, 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.

In light of the above, I find that the tenancy ended February 20, 2012 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent for the months of January and February 2012 in the amount \$1,780.00. I make no award for the NSF charge as such amounts are not recoverable under the Direct Request procedure. The landlord is provided a Monetary Order to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. The security deposit remains in trust to be administered in accordance with the *Act*.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$1,780.00 to serve upon the tenant.

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 29, 2012.

Residential Tenancy Branch