



Dispute Resolution Services

Page: 1

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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 30, 2012, the Landlord's agent served the Tenant with the Notice of Direct Request Proceeding by leaving it with the Tenant at the rental unit. The Tenant signed the Proof of Service document, indicating receipt of the document.

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?

Is the Landlord entitled to 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;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;
- A copy of a residential tenancy agreement which was signed by a different Landlord and the Tenant on January 2, 2007, indicating a monthly rent of \$500.50 due on the first day of the month;
- A copy of a Statement of Account setting out the rent due and payments made; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the Landlord issued on January 5, 2012, with a stated effective vacancy date of January 14, 2012, for \$593.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant has failed to pay rent owed for January, 2012, and was served the 10 Day Notice to End Tenancy for Unpaid Rent by delivering the document to the Tenant at the rental unit on January 5, 2012, at 5:02 p.m. with a witness present. The Tenant signed the Proof of Service document, acknowledging receipt.

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 was served with notice to end the tenancy on January 5, 2012, as declared by the Landlord.

I accept the evidence before me that the Tenant failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the Act. The Tenant has not filed an Application for Dispute Resolution disputing the Notice to End Tenancy

The Notice to End Tenancy was issued by the Landlord for the rental unit which is the same rental unit and the same Tenant as noted on the tenancy agreement. I am satisfied that the Landlord is the Tenant's landlord. 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. Therefore, I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord did not provide sufficient evidence to support its application for a Monetary Order in the amount of \$593.00. For example, the Landlord did not provide copies of notices of rent increases in order for me to uphold those notices as valid. Therefore, I find that the Landlord has proven its monetary claim in the amount of \$500.50 only and provide a Monetary Order in that amount.

Conclusion

I find, pursuant to the provisions of Section 55 of the Act, that the Landlord is entitled to an Order of Possession effective **two days after service** on the Tenant. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the Landlord is entitled to monetary compensation pursuant to the provisions of Section 67 in the amount of **\$500.50** rent owed and I provide an Order in that amount. 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.

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 1, 2012.

Residential Tenancy Branch