



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, for each tenant, declaring that on March 29, 2012 the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided Canada Post receipts and tracking numbers as evidence of service. Section 90 of the Act determines that the documents are deemed to have been received five days later.

Based on the written submissions of the landlord, I find that the tenants have 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 tenants, including the registered mail receipts;
- A copy of a residential tenancy agreement which was signed by the parties on September 7, 2011, indicating a monthly rent of \$1,600.00 due on the 1st day of every month;
- A copy of the tenants' ledger and move-in condition inspection report;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 9, 2012 with a stated effective vacancy date of March 23, 2012, for \$1,625.00 in unpaid rent as of March 1, 2012;
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord sent the 10 Day Notice to the male tenant via registered mail on March 9, 2012; and,
- A copy of the registered mail receipt and tracking information showing the registered mail was received by the tenant March 15, 2012.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

On the Application for Dispute Resolution the landlord submitted that the 10 Day Notice included unpaid rent of \$1,600.00 and a late fee of \$25.00.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a 10 Day Notice to End Tenancy in a manner that complies with the Act. Since the Notice was sent via registered mail it is deemed to be received by the tenants five days later in accordance with section 90 of the Act. The effective date is also automatically changed to read March 24, 2012 pursuant to section 53 of the Act.

I accept the evidence before me that the tenants have 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 tenants are 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 tenancy ended March 24, 2012 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenants.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$1,600.00 and the landlord is provided a Monetary Order to serve upon the tenants. Late fees may not be recovered under the Direct Request procedure and the late fee is not included in the Monetary Order. 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 tenants. The landlord is provided a Monetary Order in the amount of \$1,600.00 to serve upon the tenants.

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: April 03, 2012.

Residential Tenancy Branch