



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 March 15, 2012, the Landlord's agent served each of the Tenants with the Notice of Direct Request Proceeding via registered mail. The Landlord provided a Canada Post receipt, tracking number as evidence of service. Section 90 of the Act determines that a document is deemed to have been served 5 days after mailing.

Based on the written submissions of the Landlord, I find that both of 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?

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 the parties in 2010, indicating a monthly rent of \$830.00 due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 2, 2012, with a stated effective vacancy date of March 14, 2012, for \$830.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the Tenants' door on March 2, 2012. The Act deems that the Tenants were served on March 5, 2012.

The 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.

Analysis

I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end the tenancy as declared by the Landlord.

The notice is deemed to have been received by the Tenant on March 5, 2012.

I accept the evidence before me that the Tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the Tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on March 15, 2012.

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

Conclusion

I find, pursuant to section 55 of the Act, that the Landlord is entitled to an Order of Possession effective **two days after service** on the Tenants, 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 monetary compensation pursuant section 67 in the amount of **\$830.00** for rent owed and I grant an Order in that amount. This Order must be served on the Tenants 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: March 21, 2012.

Residential Tenancy Branch