



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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding upon the Tenant which declares that on April 4, 2012, at 9:45 a.m., the Landlord's agent served the Tenant with the Notice of Direct Request Proceeding by registered mail to the rental unit. The Landlord provided copies of the registered mail receipt and tracking number for the registered documents.

Based on the written submissions of the Landlord, I find that the Tenant was been duly served with the Direct Request Proceeding documents pursuant to the provisions of Section 89(1)(c) of the Act.

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 upon 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 on October 19, 2010, indicating a monthly rent of \$1,000.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the Landlord issued on February 25, 2012, with a stated effective vacancy date of March 3, 2012, for \$2,850.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant has failed to pay rent in full for the past few months, and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document to the Tenant's door at the rental unit on February 25, 2012, at 2:30 p.m. A Witness signed the Proof of Service document.

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 by posting the document to his door on February 25, 2012, as declared by the Landlord. Service in this manner is deemed to be effected 3 days after posting the Notice, February 28, 2012.

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. 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 March 9, 2012. Therefore, I find that the Landlord is entitled to an Order of Possession.

Based on the documentary evidence provided, I also find that the Landlord is entitled to a monetary award for unpaid rent in the amount of \$2,850.00 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 **\$2,850.00** for 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: April 10, 2012.

Residential Tenancy Branch