



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 which declares that on April 27, 2012, at 2:00 p.m., the Landlord's agent served each the Tenants with the Notice of Direct Request Proceeding by leaving the document with the Tenant at the rental unit.

Based on the written submissions of the Landlord, I find that the Tenant has been served with the Direct Request Proceeding documents in accordance with the provisions of Section 89(1)(a) 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 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 on January 13, 2012, indicating a monthly rent of \$1,115.00 due on the first day of the month. There are additional monthly fees for a locker (\$10.00); and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the Landlord issued on April 11, 2012, with a stated effective vacancy date of April 24, 2012, for \$2,230.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant has failed to pay the rent owed for March and April, 2012, 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 April 11, 2012, with a witness present.

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, as declared by the Landlord. Service in this manner is deemed to be effected three days after posting the document to the Tenant's door, April 14, 2012.

I accept the evidence before me that the Tenant failed to pay the rent owed 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 April 24, 2012. The Tenant is overholding and I find that the Landlord is entitled to an Order of Possession.

I accept the Landlord's written submission that the Tenant owes \$2,230.00 in unpaid rent for March and April, 2012. Therefore, I find that the Landlord has proven its monetary claim for unpaid rent in the amount of \$2,230.00 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 **\$2,230.00** 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 30, 2012.

Residential Tenancy Branch