



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 a Direct Request proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* in response to an application made 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 which declares that on April 20, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding personally. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request proceeding requesting an Order of Possession and a monetary order.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?
Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on March 6, 2012 for a tenancy commencing on March 6, 2012, for the monthly rent of \$750.00 payable on the 1st day of each month;
- A copy of a Notice of Rent Increase which increased the monthly rent from \$750.00 to \$770.00 effective April 1, 2012;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on April 4, 2012 with an effective date of vacancy of April 14, 2012, due to \$770.00 in unpaid rent that was due on April 1, 2012 (both pages of the 2-page form have been provided);
- A copy of a Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that states that the tenant was served with the notice on April 4, 2012 by posting it to the door of the rental unit;

- The Landlord's Application for Dispute Resolution filed April 19, 2012 which states that the tenant has not paid the full amount of rent for the month of April, 2012, leaving a balance outstanding of \$770.00.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord, which is deemed to have been received by the tenant on April 7, 2012, being 3 days after posting the notice to the door of the rental unit. The effective date of the notice must be 10 days after service, which would bring the effective date to April 17, 2012. The *Residential Tenancy Act* states that if a notice to end tenancy is given effective on a date that is incorrect, the notice is deemed to be changed to the earliest date that complies with the *Act*. Therefore, I find that the effective date of the notice is deemed to be changed to April 17, 2012.

I accept the evidence before me that the tenant has failed to pay the rent owed within the 5 days provided under Section 46(4) of the *Act*. I find that the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the deemed effective date of the notice.

I therefore find that the landlord is entitled to an Order of Possession and a monetary order for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the landlord effective 2 days after service on the tenant.

I further grant a monetary order in the amount of \$770.00 in favor of the landlord pursuant to Section 67 of the *Residential Tenancy Act*.

This order is final and binding on the parties and may be enforced.

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: May 03, 2012.

Residential Tenancy Branch