



Dispute Resolution Services

Page: 1

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 Landlords for an Order of Possession and a Monetary Order.

The Landlords submitted two Proof of Service documents which declare that on June 11, 2012, the Landlord served each of the Tenants with the Notice of Direct Request Proceeding by registered mail to the rental unit. The Landlords provided copies of the registered mail receipts and tracking numbers in evidence.

Based on the written submissions of the Landlords, I find that the Tenants have been served with the Direct Request Proceeding documents. Section 90 of the Act deems service in this manner to be effected 5 days after mailing the documents.

Issue(s) to be Decided

Are the Landlords entitled to an Order of possession?

Are the Landlords entitled to monetary compensation for unpaid rent?

Background and Evidence

The Landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each of the Tenants;
- 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 August 26, 2011, indicating a monthly rent of \$1300.00 due on the first day of the month;

- A copy of a dishonoured cheque in the amount of \$1,300.00 dated May 1, 2012; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 3, 2012, with a stated effective vacancy date of June 13, 2012, for \$1,300.00 in unpaid rent.

Documentary evidence filed by the Landlords indicates that the rent remains unpaid. The documentary evidence indicates that the Landlords served the 10 Day Notice to End Tenancy for Unpaid Rent by handing the document to the Tenant BW on June 3, 2012, at 8:31p.m. The Proof of Service documents is signed by a witness.

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 were served with notice to end the tenancy as declared by the Landlords on June 3, 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 the effective date of the Notice.

Therefore, I find that the Landlords are entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of **\$1,300.00**.

Conclusion

Pursuant to the provisions of Section 55 of the *Act*, I hereby provide the Landlords an Order of Possession effective **two days after service** of the Order upon the Tenants. This Order must be served on the Tenants and may be filed in the Supreme Court and enforced as an Order of that Court.

Pursuant to the provisions of Section 67 of the *Act*, I hereby provide the Landlords a Monetary Order in the amount of **\$1,300.00** for service upon the Tenants. This Order 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: June 18, 2012.

Residential Tenancy Branch