



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 Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 31, 2012 the landlord served the tenants with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on February 26, 2012 for a tenancy beginning March 15, 2012 for the monthly rent of \$975.00 due on the 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, May 16, 2012 with an effective vacancy date of May 27, 2012 due to \$1,212.50 in unpaid rent.

The landlord seeks to recover the sum of \$907.50 in unpaid rent and \$25.00 for a returned cheque fee

Documentary evidence filed by the landlord indicates that the tenants have failed to pay the full rent owed for the month of May and that the tenants have been served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants rental unit on May 16, 2012 and therefore is deemed served three days later.

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.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a Notice to End Tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on May 19, 2012 and the effective date of the notice is amended to May 29, 2012 pursuant to section 53 of the *Act*. 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*. The tenants now owe the sum of \$907.50.

The landlord is unable to file a monetary claim under the Direct Request Proceeding for anything other than unpaid rent. The landlord has included a \$25.00 returned cheque fee. As the landlord is not entitled to seek this portion of his claim under the direct request proceeding, this section of the landlords claim is dismissed with leave to reapply.

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.

Conclusion

I find that the landlord is entitled to an Order of Possession pursuant to section 55 effective **two days after service on 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.

I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$907.50** for rent owed. 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: June 05, 2012.

Residential Tenancy Branch