



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 Landlords for an Order of Possession and a Monetary Order.

The Landlords submitted a Proof of Service document which declares that on July 6, 2012, the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail to the rental unit. The Landlords provided a copy of the registered mail receipt and tracking number in evidence.

Based on the written submissions of the Landlords, I find that the Tenant has 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 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, indicating a monthly rent of \$789.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 18, 2012, with a stated effective vacancy date of July 3, 2012, for \$789.00 in unpaid rent that was due on June 1, 2012.

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 registered mail sent to the Tenant on June 18, 2012. The Landlords provided a copy of the registered mail receipt and tracking number in evidence.

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 that she is deemed to have been served.

Analysis

I have reviewed all documentary evidence and accept that the Tenant was served with notice to end the tenancy as declared by the Landlords. Further to the provisions of Section 90 of the Act, I find that the Tenant is deemed to have been served with the Notice to End Tenancy on June 23, 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*.

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 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 **\$789.00**.

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 Tenant. This Order 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 **\$789.00** for service upon the Tenant. 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: July 12, 2012.

Residential Tenancy Branch