



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed proof of service of the notice of direct request proceeding which declares that on November 2, 2012, an agent for the landlords served the tenants with the notice of direct request proceeding via registered mail.

Section 90 of the *Act* determines that a document served in this manner is deemed to have been served five days later.

Based on the written submissions of the landlords, I find that the tenants have been duly served with the direct request proceeding documents.

Issues 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 the proof of service of the notice of direct proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on June 17, 2009, indicating monthly rent of \$825.00 due on the first day of the month; and

- A copy of a 10 day notice to end tenancy for unpaid rent which was served on October 17, 2012, with a stated effective date of October 30, 2012, for \$1,650.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenants had failed to pay the rent owed and was served the 10 day notice to end tenancy for unpaid rent by posting to the tenants' door which was witnessed on October 17, 2012. Section 90 of the *Act* deems the tenants were served three days later on October 20, 2012. The effective date on the 10 day notice is October 30, 2012.

The notice states that the tenants had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. 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 tenant have been served with notice to end tenancy as declared by the landlords.

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.

Conclusion

I find that the landlords are entitled to an order of possession effective **two days after service** on the tenants and this order may be filed in the Supreme Court and enforced as an order of that court.

I find that the landlords are entitled to monetary compensation pursuant to section 67 in the amount of **\$1,650.00** comprised of 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 final and binding on the parties, unless otherwise provided under the *Act*, and 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: November 07, 2012

Residential Tenancy Branch