

DECISION

Dispute Codes

OPR

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 Landlord for an Order of Possession.

The Landlord submitted two signed Proof of Service of the Notice of Direct Request Proceeding documents which declare that on November 22, 2012, the Landlord's agent served each of the Tenants with the Notice of Direct Request Proceeding by handing the documents to the Tenants at the rental unit.

Based on the written submissions of the Landlord, I find that the Tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding upon 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 20, 2012, indicating a monthly rent of \$1,060.00 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 November 5, 2012, with a stated effective vacancy date of November 16, 2012, for \$778.40 in unpaid rent.

Documentary evidence filed by the Landlords indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord's agent served the 10 Day Notice to End Tenancy for Unpaid Rent by handing the document to the male Tenant on November 5, 2012, at 5:45 p.m. The male Tenant signed the Proof of Service document acknowledging service.

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 Tenancy on November 5, 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 November 16, 2012. Therefore, I find that the Landlord is entitled to an Order of Possession.

Conclusion

Pursuant to the provisions of Section 55 of the *Act*, I hereby provide the Landlord an Order of Possession effective **two days after service** of the Order upon the Tenants. This Order may be filed in the Supreme Court 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: December 04, 2012.

Residential Tenancy Branch