



Dispute Resolution Services

Page: 1

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 January 2, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding via personal service.

Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issues to be Decided

Is the landlord entitled to an order of possession?

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 Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on May 30, 2012, indicating that the tenant is obligated to pay \$650.00 in rent in advance on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the landlord served on the tenant on December 11, 2012 for \$675.00 in unpaid rent due in the month of December 2012; and

- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant by having a witness present when posting the notice on the tenant's door.

Section 90 of the Act provides that because the notice to end tenancy was served by posting on the door, the tenant is deemed to have received the notice three days later on December 14, 2012.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I find that the tenant received the notice to end tenancy on December 14, 2012. I accept the landlord's undisputed evidence and I find that the tenant did not pay the rental arrears and did not apply to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court. On the notice that the landlord served on the tenant, the landlord included a \$25.00 late fee as part of his claim however the Direct Request Process does not prescribe for those costs; accordingly I dismiss the landlords claim to recover the late payment fee of \$25.00 and grant them leave to reapply.

I accept the evidence before me that the tenant has failed to pay \$650.00 in rent for the month of December 2012. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$650.00.

Conclusion

I grant the landlord an order of possession and a monetary order under section 67 for \$650.00. This order may be filed in the Small Claims Division of the Provincial 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: January 10, 2013.

Residential Tenancy Branch

