



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords to obtain an Order of Possession for unpaid rent or utilities and a Monetary Order for unpaid rent or utilities and to recover the cost of the filing fee from the Tenants for this application.

The Agent appeared at the teleconference hearing and translated the Landlord's testimony into English. The Landlord affirmed that the Tenants were served with her application for dispute resolution and the hearing documents by posting them to the Tenants' door on January 2, 2013. Based on the submissions of the Landlord I find that each Tenant was sufficiently served notice of the proceeding and I continued in the Tenants' absence.

Issue(s) to be Decided

1. Should the Landlords be granted an Order of Possession?
2. Should the Landlords be awarded a Monetary Order?

Background and Evidence

The Landlord advised that she entered into a verbal tenancy agreement with the Tenants which began near the beginning of September 2012. Rent is payable on the first of each month in the amount of \$675.00 and at the outset of the tenancy the Tenants paid \$337.50 as the security deposit.

The Landlord stated that the Tenants paid the full rent for September and October however they had not paid any rent since. They have posted two 10 Day Notices to end tenancy for unpaid rent, one on November 2, 2012 and another on January 2, 2013. They are seeking an Order of Possession for as soon as possible.

Analysis

Section 89 of the *Residential Tenancy Act* determines the method of service for documents. The Landlords have applied for an Order of Possession and a Monetary Order which requires the Landlords to serve the Tenants with the notice for dispute resolution in accordance with section 89 of the Act.

Section 89(2)(c) provides that if the notice of direct request application was posted at the rental unit, service is met only for the request of an Order of Possession. Therefore, I find that the service requirements for the request for a monetary order have not been met and I hereby dismiss the Landlords' request for a monetary order, with leave to reapply.

I have reviewed all documentary evidence and accept that the Tenants have been served with notice to end tenancy as declared by the Landlords. The notice is deemed to have been received by the Tenants on November 22, 2012, the third day after it was posted to the Tenants' door, and the effective date of the notice is December 2, 2012, pursuant to section 90 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*.

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 and I hereby grant the Landlords an Order of Possession.

The Landlords have been successful with their request for an Order of Possession; therefore I award recovery of the \$50.00 filing fee.

Conclusion

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenants.

The Landlords may withhold the one time award of \$50.00 from the security deposit as recovery of their filing fee.

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 29, 2013

Residential Tenancy Branch

