



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal LePage Westside Property Management
and [tenant name suppressed to protect privacy]

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 for unpaid rent 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 February 21, 2013, the landlord 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 landlord, I find that the tenants have been duly served with the direct request proceeding documents five days after February 21, 2013 which is February 26, 2013.

Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent under the *Act*?
- Is the landlord entitled to a monetary order for unpaid rent under the *Act*?

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 May 25, 2010, indicating a monthly rent of \$3,330.00 due on the first day of the month and a Notice of Rent Increase dated August 28, 2012 and effective

December 1, 2012 for an additional \$50.00 resulting in a new monthly rent of \$3,350.00; and

- A copy of a 10 day notice to end tenancy for unpaid rent which was issued on February 15, 2013, with a stated effective vacancy date of March 26, 2013 (26/03/2013), for \$3,350.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the rent owed and was served the 10 day notice to end tenancy for unpaid rent by personal service on tenant HK and which was signed by tenant, HK, on February 15, 2013 at 5:00 p.m. There was no evidence submitted to indicate that the 10 Day Notice effective date of March 26, 2013 was amended or changed by the landlord.

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 tenants have been served with notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenant has 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 is ending the effective date of the notice which is March 26, 2013. Therefore, I find that the landlord is entitled to an order of possession **effective March 26, 2013 at 1:00 p.m.** and a monetary order for unpaid rent.

Conclusion

I find that the landlord is entitled to an order of possession effective March 26, 2013 at 1:00 p.m. This order must be served 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 landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$3,350.00** 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: February 27, 2013

Residential Tenancy Branch

