



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST DECISION

Dispute Codes

OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 14, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding in person.

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

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 55 and 67 of the *Residential Tenancy Act (Act)*?

I have reviewed all documentary evidence submitted by the landlord.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, served to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 17, 2013 effective on January 28, 2013 for \$2,200.00 in accrued rental arrears,

- A copy of a residential tenancy agreement which was signed by the parties on March 22, 2011 for \$850.00 per month rent, due on the first day of the month.
- A copy of the tenant account ledger showing rental arrears incurred for each month that the rent was not paid in full.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay:

- \$430.00 in February 2012
- \$20.00 in July 2012
- \$425.00 in October 2012
- \$475.00 in November 2012
- \$425.00 in December 2012
- \$425.00 in January 2013

The total rental arrears are shown as \$2,200.00 and the landlord is requesting compensation. The landlord also seeks an Order of Possession.

Analysis

Based on the evidence, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent. The Notice states that the tenant had five days to pay the rent to cancel the Notice or apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the 10-Day Notice within five days and did not pay the arrears within five days.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

Given the above, I find that the landlord is entitled to monetary compensation under section 67 of the Act in the amount of \$2,200.00.

I hereby grant an Order of Possession to the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I order monetary compensation to the landlord under section 67 in the amount of \$2,200.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is granted both a monetary order and an Order of Possession.

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: February 19, 2013

Residential Tenancy Branch

