



Dispute Resolution Services

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 February 5, 2013, the landlord served the tenant 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 received 5 days after service.

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

The landlord's application identified the landlord as _____. The landlord's agent was contacted and the agent confirmed that this was a typographical error and that the landlord's name is _____. I find that the tenant was not misled by this typographical error and I allowed the application to be amended. The style of cause in this decision and accompanying orders reflects that amendment.

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 June 30, 2011, indicating that the tenant is obligated to pay \$700.00 in rent in advance on the first day of the month;

- A copy of the landlord's accounting register showing that the tenant owes the following amounts:

Month	Rent owing	Parking fee owing
June 2012	\$ 610.00	nil
October 2012	\$ 700.00	\$15.00
November 2012	\$ 250.00	\$15.00
December 2012	nil	\$15.00
January 2013	\$ 700.00	\$15.00
Total:	\$2,260.00	\$60.00

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlord served on the tenant on January 22, 2013 for \$2,320.00 in unpaid rent; and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenant by both posting it to the door of the rental unit and sending it via registered mail.

Section 90 of the Act provides that because the Notice was served by posting, the tenant is deemed to have received the Notice 3 days later on January 25, 2013. Section 90 further provides that a document served by registered mail is deemed to have been received 5 days later.

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 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 on the door of the rental unit on January 25, 2013 and again by mail on January 27, 2013. 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.

I accept the evidence before me that the tenant has failed to pay \$2,260.00 in rent for the months of June – November and January. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$2,260.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

I dismiss with leave to reapply the landlord's claim for \$60.00 in parking fees. Section 55(4) of the *Residential Tenancy Act* sets out the scope of an application for dispute resolution and permits only a claim for rent, not other fees such as parking.

Conclusion

I grant the landlord an order of possession and a monetary order for \$2,260.00.

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 08, 2013

Residential Tenancy Branch

