



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NELSON CARES SOCIETY
and [tenant name suppressed to protect privacy]

DIRECT REQUEST DECISION

Dispute Codes

OPR

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 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 13, 2013 at 11:45 a.m., 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 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 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, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 4, 2013, with an effective date of February 15, 2013 for \$387.00 in rental arrears,

- A copy of a residential tenancy agreement which was signed on December 10, 2012 by the parties confirming rent of \$387.00 per month, due on the first day of the month.

The documentary evidence filed by the landlord indicates that the tenant had failed to pay \$387.00 rent owed for the month of January 2013, and was served with a 10-Day Notice to End Tenancy for Unpaid Rent, by posting it on the door on February 4, 2013 in front of a witness.

Analysis

Based on the testimony of the landlord, 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 or apply for Dispute Resolution or the tenancy would end. I find that the tenant did not apply to dispute the Notice to End Tenancy 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.

I hereby grant the landlord an Order of Possession 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.

Conclusion

The landlord is successful in the application and is granted 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 18, 2013

Residential Tenancy Branch

