



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR

Introduction

This matter was conducted 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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding for each tenant to declare that on January 29, 2013 the landlord served the tenants with the Notices of Direct Request Proceeding by posting on the rental unit door. Section 90 of the Act determines that the documents are deemed to have been received by the tenants three days later.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession 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 for each tenant;
- A copy of a residential tenancy agreement which was signed by the parties on June 30, 2011, indicating a monthly rent of \$815.00 due on the 1st day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 13, 2013 with a stated effective vacancy date of January 23, 2013, for \$815.00 in unpaid rent as of January 1, 2013; and,
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord personally served the 10 Day Notice to the male tenant on January 13, 2013 as evidenced by the tenant's signature.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

In the details of dispute the landlord states that the tenants failed to pay rent for January 2013.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a 10 Day Notice to End Tenancy as declared by the landlord.

I accept the evidence before me that the tenants have failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*. Accordingly, 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. Therefore, I find that the tenancy ended January 23, 2013 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenants.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants.

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 05, 2013

Residential Tenancy Branch

