



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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 based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 1, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding via serving an adult who apparently resides with the Tenant.

The landlord submitted a statement that she served an adult guest of the tenant, and the guest informed the landlord that the tenant had been taken into custody by the police and had been sent back to another province on a warrant. The landlord contacted the police in the other province and was able to ascertain where the tenant was being held in custody. The landlord left her contact information for the tenant.

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

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of 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 tenant;
- A copy of a residential tenancy agreement which was signed by the parties on June 23, 2000, indicating a monthly rent of \$600.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 23, 2013, with a stated effective vacancy date of February 2, 2013, for \$650.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door, which was witnessed on January 23, 2013. Section 90 of the Act deems the tenant was served on January 26, 2013.

The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenant 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 tenant has 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 tenant is 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 landlord is entitled to an Order of possession for unpaid rent.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court 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 *Act*.

Dated: February 12, 2013

Residential Tenancy Branch

