



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 19, 2013, at 7:45 p.m. the Landlords personally served the Tenant with the Notice of Direct Request Proceeding at the rental unit. Based on the written submissions of the Landlords, I find that the Tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- 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 all parties for a month to month tenancy that began on November 01, 2011, for the monthly rent of \$1,400.00 which is payable on the first of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 5, 2013, with an effective vacancy date of February 16, 2013, due to \$1,400.00 in unpaid rent; and
- A statement on the Landlords' application indicating the Tenant has made a partial payment and has an outstanding balance due of \$370.00.

Documentary evidence filed by the Landlords indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on February 05, 2013, at 7:30 p.m. when it was posted to the Tenant's door in the presence of a witness.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlords. The notice is deemed to have been received by the Tenant on February 08, 2013, the third day after it was posted to the Tenant's door, and the effective date of the notice is February 18, 2013, pursuant to section 90 of the *Act*. 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 and I hereby grant the Landlords an Order of Possession.

Monetary Order – The evidence supports that the Tenant has failed to pay the full rent in accordance with section 26 of the *Act* which stipulates that a tenant must pay rent when it is due under the tenancy agreement. The Tenant has an unpaid balance owing of \$370.00 which was due on February 1, 2013. As per the aforementioned I find the Landlords have met the burden of proof and I award him a Monetary Order for **\$370.00**.

Conclusion

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlords have been awarded a Monetary Order in the amount of **\$370.00**. This Order is legally binding and must be served upon the Tenant.

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*.

This decision is legally binding and 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 21, 2013

Residential Tenancy Branch

