



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

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 and a Monetary Order.

The Landlord submitted two signed Proof of Service documents with respect to the Notice of Direct Request Proceeding which declare that on March 14, 2013, at 11:45a.m., the Landlord served each of the Tenants with the Notice of Direct Request Proceeding by registered mail to the Tenants at the rental unit. The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence.

Based on the Landlord's written submissions, I find that both of 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?

Is the Landlord entitled to monetary compensation for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy a Proof of Service of the Notice of Direct Proceeding for each of the Tenants;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;

- A copy of a residential tenancy agreement which was signed by the Tenants on September 5, 2012, and the Landlord on September 30, 2012, indicating a monthly rent of \$925.00 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 March 4, 2013, with a stated effective vacancy date of March 15, 2013, for \$1,950.00 in unpaid rent.

The Landlord's Application for Dispute Resolution indicates that the Tenants made the following rent payments for December, 2012, January, 2013, February, and March, 2013:

Rent due	Rent paid	Balance due
December 1, 2012	\$900.00	\$25.00
January 1, 2013	\$850.00	\$75.00
February 1, 2013	NIL	\$925.00
March 1, 2013	NIL	<u>\$925.00</u>
TOTAL OUTSTANDING		\$1,950.00

Documentary evidence filed by the Landlord indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document to the Tenants' door on March 4, 2013, at 5:45 p.m. The Proof of Service document indicates that an additional copy of the Notice to End Tenancy was slid under the Tenants' door. The Proof of Service document is signed by a witness.

The 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.

Analysis

I have reviewed all documentary evidence and accept that the Tenants were served with Notice to End Tenancy by posting the Notice to the Tenants' door on March 4, 2013. Service in this manner is deemed to be effected 3 days after posting the document, in this case March 7, 2013

I accept the evidence before me that the Tenants failed to pay the rent owed in full within the 5 days granted under Section 46 (4) of the Act.

Section 53 of the Act provides that an incorrect effective date on a Notice to End Tenancy is automatically changed to the earliest date that complies with the Act. Based

on the foregoing, I find that the Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ends on March 22, 2013.

Therefore, I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of **\$1,950.00**.

Conclusion

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenants. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

Pursuant to the provisions of Section 67 of the Act, I hereby provide the Landlord with a Monetary Order in the amount of **\$1,950.00** for service upon the Tenants. This Order may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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: March 21, 2013

Residential Tenancy Branch

