



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 Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the landlord served the parties with the Notice of Direct Request Proceeding. One party was served on February 27, 2013 by hand and the other party was served on February 28 by registered mail. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the same day when served in person and on the fifth day after service by registered mail.

Based on the written submissions of the landlord, I find that the parties named on the application have been served with the Dispute Resolution Direct Request Proceeding documents.

Preliminary Issues

The tenancy agreement only names one tenant and has only been signed by that tenant. The landlord has named two tenants on the application and I will only proceed with this Direct Request proceeding against the tenant named on the tenancy agreement. The application against the second party named as a defendant is dismissed.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which only names the male tenant and was signed by the male tenant and landlord on December 16, 2012 for a tenancy beginning August 01, 2012 for the monthly rent of \$550.00 due on the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 13, 2013 with an effective vacancy date of February 26, 2013 due to \$550.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay the full rent owed for the month of February and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants rental unit on February 13, 2013 and therefore is deemed served three days later.

The Notice states that the tenant had five days to pay the rent 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.

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. The notice is deemed to have been received by the tenant on February 16, 2013. 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.

Conclusion

I find that the landlord is entitled to an Order of Possession pursuant to section 55 effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$550.00** for rent owed. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The landlords application against the second applicant named on this application for Direct Request Proceedings is dismissed without leave to reapply.

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 07, 2013

Residential Tenancy Branch

