



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

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 Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted signed documents for Proof of Service of the Notice of Direct Request Proceeding which declares that the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail on March 21, 2013 at 2:00 p.m. and in person on March 21, 2013 at 1:22 p.m. The Tenant signed the proof of service document acknowledging receipt. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, 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 documents for the Tenant; and
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy that began on July 16, 2012 for the monthly rent of \$650.00 due on 1st of the month; and
- A resident payment ledger; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, March 6, 2013, with an effective vacancy date listed as March 15, 2013, due to \$650.00 in unpaid rent plus \$25.00 late fee that was due on March 1, 2013.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent on March 6, 2013 at 2:05 p.m. when it was posted to the Tenant's door at the rental unit in the presence of a witness. A second copy was personally served to the Tenant on March 21, 2013 at 1:22 p.m. and the Tenant signed the proof of service document acknowledging receipt. A third copy was sent to the Tenant by registered mail on March 21, 2013 at 2:00 p.m. Canada Post receipts were provided in the Landlord's submission.

Analysis

Upon review of the evidence I find there to be contradictory information as to how much rent is owed by the Tenant. The Landlord's initial application indicates they are seeking to recover \$770.27 in unpaid rent; however, the Landlord amended that application on March 20, 2013 to reduce the amount claimed to \$650.00. The 10 Day Notice issued March 6, 2013 indicates a balance due of \$650.00 for March 1, 2013 rent; however the tenant ledger shows that on March 5, 2013 a payment was received of \$600.00 leaving a balance due of only \$445.27.

Based on the above, I accept that the Tenant has not paid the full rent as required by section 26 of the Act which stipulates that rent must be paid in accordance with the tenancy agreement. That being said, in light of the contradictory evidence listed above, I cannot determine the exact amount outstanding. Therefore, I proceed with the Landlord's request for an Order of Possession and dismiss the monetary claim.

I accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The first copy of the notice is deemed received by the Tenant on March 9, 2013, three days after it was posted, and the effective date of that notice is March 19, 2013, pursuant to section 90 of the *Act*. The second copy was received by the Tenant on March 21, 2013.

The tenant ledger indicates the Tenant made a payment of \$600.00 on March 5, 2013 which left a balance owing of \$445.27. I accept the evidence before me that indicates the Tenant has failed to pay the rent owed in full within 5 days of receipt of the 10 Day Notice, as required 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 Landlord an Order of Possession.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlord is 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.

I HEREBY DISMISS the monetary claim.

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 25, 2013

Residential Tenancy Branch

