



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding E Y PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR

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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 18, 2013, at 5:00 p.m., the Landlord's agent served the Tenant with the Notice of Direct Request Proceeding by posting the documents to the Tenant's door at the rental unit with a witness present

Based on the Landlord's written submissions, I find that the Tenant has been duly served with the Direct Request Proceeding documents for the purposes of requesting an Order of Possession.

Issue(s) to be Decided

Is the Landlord entitled to an Order of possession?

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 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 parties on February 18, 2009, indicating a monthly rent of \$890.00 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 28, 2013, with a stated effective vacancy date of April 8 (11), 2013, for \$2,515.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the rent remains unpaid, as follows: \$735.00 for January; \$890.00 for February; \$890.00 for March; and \$890.00 for April, 2013. The documentary evidence indicates that the Landlord's agent served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document to the Tenant's door on March 28, 2013, at 4:50 p.m. The Proof of Service document is signed by a witness.

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 from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the Tenant was served with Notice to End Tenancy on March 28, 2013, by posting the document to the Tenant's door. Service in this manner is deemed to be effected 3 days after posting the document, in this case March 31, 2013.

I accept the evidence before me that the Tenant 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 April 10, 2013. Section 53 of the *Act* provides that an incorrect end-of-tenancy date is deemed to be changed to the date that complies with the *Act*.

Therefore, I find that the Landlord is entitled to an Order of Possession.

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 Tenant. This Order may be filed in the Supreme Court 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: April 29, 2013

Residential Tenancy Branch