



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUTTON ADVANTAGE PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DIRECT REQUEST DECISION

Dispute Codes: OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 26, 2013 at 2:40 p.m., the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 55 and 67 of the Act?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 5, 2013 effective April 19, 2013 for \$850.00 in rental arrears, and
- A copy of a residential tenancy agreement which was signed by the parties on August 22, 2011, confirming that the rent is \$850.00 per month, due on the first day of each month.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay \$850.00 rent owed for the month of April 2013 and the landlord is seeking compensation in this amount and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Analysis

Based on the evidence before me, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent by registered mail sent on April 5, 2013. The Notice states that the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within five days and did not pay the arrears within five days.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts, I find that the landlord is entitled to an Order of Possession.

Given the above, I find that the landlord is also entitled to monetary compensation for rental arrears, under section 67 of the Act, in the amount of \$850.00.

I hereby grant the landlord an Order of Possession effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I order monetary compensation to the landlord under section 67 in the amount of \$850.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is granted both a monetary order and an Order of Possession.

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: May 01, 2013

Residential Tenancy Branch