



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of a Direct Request proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* in response to an application made by the landlord for an Order of Possession and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on May 16, 2013 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request proceeding requesting an Order of Possession and a monetary order.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?
Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on January 1, 2013 for a tenancy commencing on February 1, 2013, for the monthly rent of \$1200.00 payable on the 1st day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on April 13, 2013 with an effective date of vacancy of April 23, 2013, due to \$600.00 in unpaid rent that was due on April 1, 2013 (both pages of the 2-page form have been provided);
- A copy of a Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that states that the tenant was served with the notice on April 13, 2013 by posting it to the door of the rental unit;

- The Landlord's Application for Dispute Resolution dated May 15, 2013 which states that the tenant has not paid the full amount of rent for the month of April, 2013, leaving a balance outstanding of \$600.00.

Analysis

I have reviewed all the documentary evidence and accept that the notice to end tenancy was served on April 13, 2013, by posting it to the door of the rental unit. The *Act* states that documents served in this manner are deemed to have been served 3 days after such posting. Therefore, I find that the tenant was deemed to be served on April 16, 2013, and the effective date of vacancy is automatically changed to April 26, 2013 pursuant to Section 53 (1) of the *Act*.

I accept the evidence before me that the tenant did not pay the rent and did not dispute the notice within the 5 days in accordance with Section 46(4) of the *Act* and therefore, the tenant is conclusively presumed to have accepted that the tenancy ended on April 26, 2013. As a result, the landlord is entitled to an Order of Possession and a monetary order in the amount of \$600.00 for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective 2 days after service on the tenant.

I further grant a monetary order in the amount of \$600.00 in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act*.

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 22, 2013

Residential Tenancy Branch