



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 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 June 11, 2013 at 5:40 p.m. the male tenant was personally served, at the rental unit, with the Notice of Direct Request Proceeding via registered mail.

Based on the written submissions of the landlord, I find that the male respondent has been served with the Direct Request Proceeding documents, on the day of personal delivery.

On June 12, 2013 the landlord served the female respondent, via registered mail sent to an address that does not match the tenant's service address indicated on the application. The Canada Post receipt indicated an address that was not identified as a service address. As service has occurred to an address that does not align with the service address indicated on the application I find that service to the female respondent has not been proven. There was no evidence before me that the female tenant signed, accepting the registered mail.

Therefore, I find that the application may proceed against the male respondent only.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

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 a residential tenancy agreement which was signed by the parties on June 18, 2012, indicating a monthly rent of \$1,795.00 due on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 2, 2013 with a stated effective vacancy date of June 13, 2013, for \$1,795.00 in unpaid rent due June 1, 2013.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on June 2, 2013 at 10:27 a.m. The landlord's daughter was present as a witness and signed a proof of service document which was supplied as evidence. The Act deems the tenant was served on the 3rd day after posting.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

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 June 5, 2013.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to June 15, 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*. There was no evidence before me that the tenant disputed the Notice.

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; June 15, 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid June 2013 rent in the sum of \$1,795.00.

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and the Order 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 section 67 in the amount of \$1,795.00 in June 2013 rent owed and I grant an Order in that amount. 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.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order.

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: June 14, 2013

Residential Tenancy Branch

