



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD
and [tenant name suppressed to protect privacy]

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 landlords for an Order of Possession and a monetary order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request which declares that on June 18, 2013 the landlords served the tenant with the Notice of Direct Request by registered mail. Section 90 of the *Act* provides that a document served in this way 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

Are the landlords entitled to an Order of Possession for unpaid rent?
Have the landlords established a monetary claim against the tenant for unpaid rent?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the landlords and the tenant on July 13, 2012 for a tenancy commencing on August 1, 2012 for the monthly rent of \$1,150.00 payable on the first day of each month. This amount includes a parking space;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on June 3, 2013 with an expected vacancy date of June 13, 2013 due to

\$1,150.00 in unpaid rent, which was due on June 1, 2013 (both pages of the 2-page form have been provided);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which states that the tenant was served with the notice on June 3, 2013 by posting it to the door with a witness; and
- The Landlord's Application for Dispute Resolution which was made on June 18, 2013, showing a claim of \$1,150.00 in outstanding rent for June, 2013.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy by posting it to the tenant's door on June 3, 2013 with a witness, as declared by the landlords. The *Act* states that documents served in this manner are deemed to have been served three days after such posting. Therefore, I find that the tenant was deemed to be served on June 6, 2013, and the effective date of vacancy is automatically changed to June 16, 2013 pursuant to Section 53 (1) of the *Act*.

I accept the evidence before me that the tenant has failed to dispute the notice or pay the rent owed in full within the 5 days granted under section 46(4) of the *Act*. As a result, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on June 13, 2013. Therefore, the landlords are entitled to an Order of Possession and a monetary order for unpaid rent in the amount of \$1,150.00.

Conclusion

For the reasons set out above, I find the landlords are entitled to an Order of Possession effective **2 days after service on the tenant**. This order must be served on the tenant and may be filed and enforced in the Supreme Court as an order of that Court.

I find that the landlords are also entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,150.00**. 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.

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 24, 2013

Residential Tenancy Branch

