



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 14, 2013, at 18:56, the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail to the Tenant at the rental unit. The Landlord provided a copy of the registered mail receipt and tracking numbers in evidence.

Based on the Landlord's written submissions, I find that the Tenant has been served with the Direct Request Proceeding documents.

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 March 1, 2013, indicating a monthly rent of \$1,200.00, which was due pursuant to a schedule attached to the tenancy agreement and which coincided with the Tenant's Income and Disability Assistance cheque issue dates. The tenancy agreement also indicates that rent is due on "the last day of the month between 6:00 p.m. and 7:30 p.m.";

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 2, 2013, with a stated effective vacancy date of August 12, 2013, for \$900.00 in unpaid rent; and
- Copies of receipts dated August 1, 3 and 8, 2013, for partial payments towards outstanding rent. The receipts are “for use and occupancy only”.

The documentary evidence indicates that the Landlord served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving the document with the Tenant on August 2, 2013 at 6:00 p.m. The Proof of Service document is signed by the Tenant, acknowledging service.

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 August 2, 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, and that partial payment towards rent was accepted for use and occupancy only.

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 August 12, 2013.

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: August 22, 2013

Residential Tenancy Branch