



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding; it declared that on July 30, 2013, the landlord served the tenant, C.H. with the Notice of Direct Request Proceeding by registered mail. The landlord did not submit proof that he served the tenant, M.M.

Pursuant to Section 90 of the *Residential Tenancy Act* a document served in this manner is deemed to have been served five days later.

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

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary order for unpaid rent and if so, in what amount?

Background and Evidence

The landlord submitted the following documents:

- 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 August 20, 2012, providing for a monthly rent of \$750.00 due on the 30th day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on July 8, 2013 with a stated effective vacancy date of July 19, 2013, for \$7,500.00 in unpaid rent.

Documents filed by the landlord established that the tenants failed to pay rent since September, 2012 and were personally served the 10 Day Notice to End Tenancy for Unpaid Rent on July 8, 2013.

The Notice stated that the tenants had five days from the service date to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenants 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 tenants have been served with notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

The landlord provided evidence that \$7,500.00 was due for rent, but he abandoned any amount above \$5,000.00 and claimed only \$5,000.00. I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$5,000.00**, comprised of rent owed, but only as against the tenant, C.H. because she was the only tenant served with the application by registered mail.

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: August 06, 2013

Residential Tenancy Branch

