



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fourmost Holdings Ltd.
and [tenant name suppressed to protect privacy]

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 September 12, 2013 the landlord, S.F., personally served the tenant with the Notice of Direct Request Proceeding, at the rental unit address, at 6 p.m.

Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents effective September 12, 2013.

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 April 15, 2013, indicating a monthly rent of \$550.00 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 August 17, 2013 with a stated effective vacancy date of August 27, 2013, for \$1,000.00 in unpaid rent.

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 personal delivery on August 17, 2013 at 11:30 a.m.

A proof of service document provided as evidence of service indicated that the landlord, S.F. personally served the tenant, at the rental unit address, with the caretaker, G.W. present as a witness.

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

The landlord has claimed compensation in the sum of \$450.00 for unpaid July 2013 rent; and \$550.00 unpaid August, 2013 rent.

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 August 17, 2013, the day of personal delivery.

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; August 17, 2013.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid July and August 2013 rent in the sum of \$1,000.00.

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 \$1,000.00 for July and August 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: September 20, 2013

Residential Tenancy Branch

