



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

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 landlord for an Order of Possession and a Monetary Order for unpaid rent, and to recover the filing fee from the tenant.

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on September 16, 2013 the landlord served this the tenant with the Notice of Direct Request by posting it to the tenant's door. Section 90 of the *Act* provides that a document served in this manner is deemed to have been received three days later. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request in relation to the landlord's application requesting an Order of Possession.

However, with regard to the landlord's application for a Monetary Order for unpaid rent; Sections 88 and 89 of the *Act* determine the method of service for documents. The landlord has applied for a Monetary Order which requires that the Notice of Direct Request Proceeding be served to the tenant as set out under Section 89(1) of the *Act*. As the landlord posted the Notice of Direct Request Proceeding to the tenant's door, this method of service is not acceptable under Section 89(1) of the *Act*. Consequently, I dismiss the monetary portion of the landlord's application with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on June 19, 2013. The tenancy commenced on June 19, 2013 for a monthly rent of \$600.00 payable on or before the first day of each calendar month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on September 4, 2013 with an effective vacancy date of September 17, 2013 due to

\$650.00 in unpaid rent due on September 1, 2013 (both pages of the 2 page form were provided as evidence);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities stating the landlord served the notice to the tenant on September 4, 2013 by posting it to the tenant's door with a witness; and
- The Landlord's Application for Dispute Resolution which was made on September 16, 2013 claiming \$600.00 of outstanding rent for September, 2013 and \$50.00 for the cost of filing the application.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord. Pursuant to Section 90 of the *Act*, the notice is deemed to have been received by the tenant on September 7, 2013, being 3 days after posting it to the tenant's door.

I accept the evidence before me that the tenant has failed to dispute the notice or pay the rent owed within the 5 days provided under Section 46(4) of the *Act*. Therefore, 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. I therefore find that the landlord is entitled to an Order of Possession.

Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlord effective **2 days after service on the tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

The landlord's application for a monetary order for unpaid rent and the recovery of the filing fee is dismissed with leave to re-apply.

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 23, 2013

Residential Tenancy Branch

