



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 September 10, 2013 the landlords served the tenant with the Notice of Direct Request by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served five days after such mailing. Based on the written submissions of the landlords, 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 which was signed by the landlords and the tenant on June 30, 2012 for a tenancy commencing on August 15, 2012 for the monthly rent of \$2,153.00 payable on the 15th day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on August 29, 2013 with an effective vacancy date of September 11, 2013 due to \$9,540.00 in unpaid rent due on August 15, 2013 (the 2 pages of the form were 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 landlords served the notice to the tenant on August 29, 2013, by posting it to the door with a witness; and
- The Landlord's Application for Dispute Resolution which was made on September 9, 2013 detailing the total outstanding rent of \$9,540.00.

Analysis

I have reviewed all the documentary evidence and accept that the tenant was served with the notice to end tenancy as declared by the landlords on August 29, 2013 which is deemed to have been received by the tenant on September 1, 2013, being 3 days after posting the notice to the door of the rental unit.

I accept the evidence before me that the tenant 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 the effective day of the notice. Therefore, the landlords are entitled to an Order of Possession and a Monetary Order.

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.

I further grant a Monetary Order in the amount of **\$9,540.00** in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act*. This order must be served on the tenant and may then 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: September 16, 2013

Residential Tenancy Branch

