



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prince George & District Elizabeth Fry Housing Society
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 13, 2013, at 11:45 a.m., 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?

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 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 September 22, 2011, indicating a monthly rent of \$859.00 due on the first day of the month;

- Page 1 of a 2 page Notice of Rent Increase document; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 5, 2013, with a stated effective vacancy date of September 15, 2013, for \$896.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord's agent served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving it personally with the Tenant's sister who resides with the Tenant on September 5, 2013 at 2:00 p.m. The Proof of Service document is signed by a witness.

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 September 5, 2013.

I accept the evidence before me that the Tenant failed to pay rent owed within the 5 days granted under Section 46 (4) of the *Act*. However the Landlord did not provide page 2 of the Notice of Rent Increase which indicates by how much the rent was increased and when the Tenant was served with the document. A Notice of Rent Increase must be served on a tenant at least three months before the rent increase takes effect. Therefore, although I am satisfied that the Tenant is in arrears of rent, I find that the Landlord has not provided sufficient evidence of the amount of rent that was due on September 1, 2013.

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 September 15, 2013. Therefore, I find that the Landlord is entitled to an Order of Possession.

The Landlord's application for a Monetary Order is **dismissed with leave to reapply**.

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.

The Landlord's application for a Monetary Order is **dismissed with leave to reapply**.

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

