



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 ICARUS REALTY
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 landlords for an Order of Possession and a monetary order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 18, 2013 the landlords served the tenants with the Notices of Direct Request Proceeding by personal delivery at the rental unit. The landlord provided a Proof of Service document to support the service of the documents. Section 90 of the Act determines that documents served in person are received on the day of service or on September 18, 2013.

Based on the written submissions of the landlords, I find that the tenants have 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 landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on May 15, 2013, indicating a monthly rent of \$1,400.00 due 31st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities, which was issued on September 1, 2013, with a stated effective vacancy date of September 10, 2013, for \$1,617.50 in unpaid rent and utilities.

Documentary evidence filed by the landlords indicates that the tenants have failed to pay rent and utilities owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities by posting it on the Tenants' door on September 1, 2013 at 3:30 p.m. The Act deems the tenants were served three days after posting the notice on the door or on September 3, 2013.

The Notice states that the tenants had five days to pay the rent 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 landlords.

The notice is deemed to have been received by the tenants on September 3, 2013.

I accept the evidence before me that the tenants have failed to pay the rent and utilities 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 landlords are entitled to an Order of possession and a monetary Order for unpaid rent.

Conclusion

I find, pursuant to section 55 of the Act, that the landlords are entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlords are entitled to monetary compensation pursuant section 67 in the amount of **\$1,617.50** rent owed and I grant an Order in that amount. This Order must be served on the tenants 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: September 23, 2013

Residential Tenancy Branch

