



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 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 for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding for each tenant to declare that on October 11, 2013 the landlords served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. As proof of service, the landlord provided Canada Post receipts, including tracking numbers, and a print-out from Canada Post showing receipt of the registered mail by one of the tenants. Section 90 of the Act provides that the documents are deemed to have been received five days after mailing.

Based on the submissions of the landlords, I find that both of the tenants been served or are deemed to be served with the Direct Request Proceeding documents in a manner that complies with the Act.

Issue(s) to be Decided

Are the landlord entitled to an Order of Possession and 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 Request, including the registered mail receipts;
- A copy of a residential tenancy agreement which was signed by the parties on May 6, 2013, indicating a monthly rent of \$1,275.00 due on the 1st day of every month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 2, 2013 with a stated effective vacancy date of October 15, 2013, for \$1,275.00 in unpaid rent as of October 1, 2013;
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenants' door on October 2, 2013 in the presence of a witness;
- Photographs of both pages of the 10 Day Notice posted to the door; and,
- Copies of rent cheques and bank notices showing rent cheques for previous months were dishonored.

The 10 Day 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.

In the details of dispute section of the Application filed by the landlords on October 11, 2013 the landlords state that the tenants failed to pay rent for October 2013.

Analysis

I have reviewed all documentary evidence and accept that the tenants were served with a 10 Day Notice to End Tenancy in a manner that complies with the Act.

I accept the evidence before me that the tenants failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, 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 tenancy ended October 15, 2013 and the landlords are entitled to an Order of Possession effective two (2) days after service upon the tenants.

I find the landlords are entitled to monetary compensation for unpaid rent in the amount of \$1,275.00 for the month of October 2013. The landlords are provided a Monetary Order for this amount to serve upon the tenants. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. The security deposit remains in trust to be administered in accordance with the Act.

Conclusion

The tenancy has ended and the landlords have been provided an Order of Possession effective two (2) days after service upon the tenants. The landlords have been provided a Monetary Order in the amount of \$1,275.00 to serve upon the tenants.

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: October 25, 2013

Residential Tenancy Branch

