



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 12, 2013, the Landlords served the Tenant with the Notice of Direct Request Proceeding by registered mail. Canada Post receipts were provided in the Landlords' evidence. Based on the written submissions of the Landlords, I find that the Tenant is deemed served notice of the Dispute Resolution Direct Request Proceeding documents, in accordance with section 90 of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlords:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant;
- A copy of a residential tenancy agreement which was signed by the Landlord(s) and Tenant for a fixed term tenancy that began on October 30, 2012, and is set to end in five years, for the monthly rent of \$1,050.00 due on or before the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 2, 2013, with an effective vacancy date listed as November 12, 2013, due to \$1,050.00 in unpaid rent that was due on November 1, 2013; and

Documentary evidence filed by the Landlords indicates that the Tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on November 2, 2013 at 4:00 p.m. in the presence of a witness.

Analysis

Order of Possession - I have reviewed all documentary evidence and accept that the Tenant has been served with notice to end tenancy as declared by the Landlords. The notice was received by the Tenant on November 2, 2013, and the effective date of the notice is November 12, 2013, pursuant to section 46 of the *Act*. I accept the evidence before me that the Tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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 the effective date of the Notice and I hereby grant the Landlords an Order of Possession.

Monetary Order – The evidence supports that the Tenant has failed to pay the outstanding rent in full which I find is a violation of section 26 of the *Act* which provides that a tenant must pay rent when it is due under the tenancy agreement. As per the aforementioned I approve the Landlord's request for a Monetary Order for **\$\$1,050.00**.

Any deposits currently held in trust by the Landlords are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlords are entitled to an Order of Possession effective **two days after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The Landlords have been issued a Monetary Order for **\$1,050.00**. This Order is legally binding and must be served upon the Tenant.

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: November 19, 2013

