



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 22, 2013 the landlord sent the Notice of Direct Request Proceeding to the tenant via registered mail at the rental unit. The landlord provided a registered mail receipt, including tracking number, as evidence. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlord, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent and utilities?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on July 18, 2013, indicating a monthly rent of \$785.00 due on the 1st day of every month and the tenant is required to pay for electricity and heat;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 8, 2013 with a stated effective vacancy date of November 19, 2013, for \$2,307.00 in unpaid rent as of November 1, 2013 and \$50.27 for utilities that was demanded in writing on September 12, 2013;

- A copy of a Proof of Service of the 10 Day Notice indicating the landlord sent the 10 Day Notice to the tenant via registered mail on November 8, 2013;
- A copy of the registered mail receipt, including tracking number, dated November 8, 2013.
- A copy of a document dated September 12, 2013 that requests the tenant pay \$50.27 for utilities;
- A copy of a document detailing the calculation of the outstanding rent as the sum of: \$377.00 for August 2013; \$285.00 for September 2013; \$75.00 for an undisclosed reason; \$785.00 for October 2013; and, \$785.00 for November 2013.

The 10 Day Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. 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 landlord sent a 10 Day Notice to the tenant via registered mail, as declared by the landlord. Since the 10 Day Notice was sent by mail it is deemed to be received by the tenant five days later, pursuant to section 90 of the Act. Accordingly, the effective date of the 10 Day Notice automatically changed to read November 23, 2013 as provided under section 53 of the Act.

I accept the evidence before me that the tenant failed to pay the outstanding rent and utilities 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 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. Therefore, I find that the tenancy ended November 23, 2013 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent and utilities as claimed by the landlord with the exception of the unidentified charge of \$75.00. Therefore, I provide the landlord with a Monetary Order in the sum of \$2,282.27.

The security deposit remains in trust to be administered in accordance with the Act.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$2,282.27 to serve 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: December 03, 2013

Residential Tenancy Branch

