



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the 'Act') in response to an application made by the landlord for an Order of Possession and a Monetary Order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on December 11, 2013 the landlord served the tenant personally with the Notice of Direct Request. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request proceeding requesting an Order of Possession and a Monetary Order.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Has the landlord established a monetary claim against the tenant for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the landlord and the tenant on October 4, 2013 commencing on August 1, 2013 for the monthly rent of \$900.00 payable on the first day of each month. The agreement also states that the tenant is responsible for 1/3 of the gas and hydro which equates to approximately \$100.00 per month which is to be adjusted upon receipt of invoices;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on December 2, 2013 with an effective vacancy date of December 12, 2013 due to \$1,050.00 in unpaid rent due on December 1, 2013 (both pages were provided);
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities stating the landlord served the notice to the tenant on December 2, 2013 personally with a witness; and

- The Landlord's Application for Dispute Resolution made on December 11, 2013 claiming \$1,050.00 of outstanding rent for December, 2013.

Analysis

I have reviewed all the documentary evidence and accept that the tenant was served with the notice to end tenancy personally with a witness on December 2, 2013. I accept the evidence before me that the tenant has failed to dispute the notice or pay the rent owed within the 5 days provided under Section 46(4) of the *Act*. Therefore, 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. I therefore find that the landlord is entitled to an Order of Possession.

In relation to the landlord's monetary claim for \$1,050.00, the tenancy agreement states that the monthly rent payable by the tenant is \$900.00 plus utilities which are to be adjusted based on the tenant's consumption. However, the landlord has failed to provide sufficient evidence to show what the extra \$150.00 claimed relates to, such as a utility bill. As a result, I am only prepared to award the landlord \$900.00 for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective **2 days after service on the tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I also grant a Monetary Order in the amount of **\$900.00** in favour of the landlord pursuant to Section 67 of the *Act*. This order must be served on the tenant 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: December 13, 2013

Residential Tenancy Branch

