



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GB & NEKON CARES SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

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.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 17, 2013 the landlords served the tenant with the Notice of Direct Request Proceeding via personal delivery. Section 90 of the Act determines that a document is deemed to have been served the same day when served in person or on December 17, 2013.

Based on the written submissions of the landlords, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

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 tenant;
- A copy of a residential tenancy agreement which was signed by the parties on September 02, 2011, indicating a monthly rent of \$400.00 due 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 4, 2013, with a stated effective vacancy date of December 31, 2013, for \$417.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenant has failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery on December 4, 2013 at 10:00 a.m. The Act deems the tenants were served the same day or on December 4, 2013.

The 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 tenant has been served with notice to end tenancy as declared by the landlords.

The notice is deemed to have been received by the tenant on December 4, 2013.

I accept the evidence before me that the tenant has failed to pay the rent owed in full with in 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.

Therefore, I find that the landlords are entitled to an Order of possession.

Conclusion

I find, pursuant to section 55 of the Act, that the landlords are entitled to an Order of Possession effective **December 31, 2013** and the Order may be filed in the Supreme Court 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 18, 2013

Residential Tenancy Branch