



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUNSET PARK APARTMENTS
and [tenant name suppressed to protect privacy]

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 January 23, 2014 the landlord served the tenant with the Notice of Direct Request by registered mail. Section 90 of the Act provides that a document is deemed to have been served five days after such mailing. 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 June 15, 2013 for a tenancy commencing on the same day. The monthly rent is \$695.00 payable by the tenant on or before the first calendar day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on January 13, 2014 with an effective vacancy date of January 23, 2014 due to \$2,147.50 in unpaid rent due on January 1, 2014 (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 January 13, 2014 by posting it to the tenant’s door with a witness; and

- The Landlord's Application for Dispute Resolution which was made on January 23, 2014 claiming \$2,147.50 in outstanding rent as follows: \$62.50 for September, 2013 and \$695.00 for each month of October, November and December, 2013.

Analysis

I have reviewed the documentary evidence and accept that the landlord served the tenant with the notice to end tenancy by posting it to the door with a witness on January 13, 2014. The Act states that documents are deemed to have been served 3 days after posting. Therefore, I find that the tenant was deemed to be served on January 16, 2014 and the effective date of vacancy on the notice is therefore automatically changed to January 26, 2014, pursuant to Section 53 of the Act.

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 and a Monetary Order 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 enforced in the Supreme Court as an order of that court if the tenant fails to vacate the rental unit.

I further grant a Monetary Order in the amount of **\$2,147.50** in favour of the landlord pursuant to Section 67 of the Act. This order must be served on the tenant and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if the tenant fails to make payment.

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: January 29, 2014

Residential Tenancy Branch

