



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Meicor Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

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 landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 14, 2013 the landlord personally served the tenant with the Notice of Direct Request Proceeding at 4:35 p.m. at the rental unit address. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents effective January 14, 2013.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

Background and Evidence

The landlord 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 November 14, 2012, indicating a monthly rent of \$950.00 due in advance on or before the first day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 4, 2014 with a stated effective vacancy date of January 17, 2014, for \$970.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery on January 4, 2013 at 2 p.m. The tenant signed a proof of service document, acknowledging receipt of the Notice. A copy of the proof of serviced was submitted as evidence.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$950.00 within 5 days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within 5 days.

The landlord has claimed compensation in the sum of \$950.00 for January 2014 rent owed.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord.

Pursuant to section 90 of the Act the Notice is deemed to have been received by the tenant on January 4, 2014, the day of personal delivery.

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.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended effective January 17, 2014

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$950.00 for January 2014 rent owed and I grant an Order in that amount. 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.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

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 23, 2014

Residential Tenancy Branch

