



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

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

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on February 5, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Act provides that a document served by mail is deemed to have been served five days after mailing it. Based on the written submissions of the landlord, I find that the tenant was served with the Notice of Direct Request Proceeding requesting an Order of Possession.

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a tenancy agreement which was signed by the landlord and the tenant on November 12, 2013 for a tenancy commencing on November 13, 2013 for the monthly rent of \$900.00 payable by the tenant in advance on or before the first day of each month. The tenancy agreement also provides for the fact that the landlord named in the application is acting as the agent for the company named in the tenancy agreement as the landlord.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on January 10, 2014 with an expected vacancy date of January 23, 2014 due to \$900.00 in unpaid rent due on January 1, 2014 (both pages of the 2 page form were provided);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which states that the landlord served the notice on January 10, 2014 by posting it to the tenant's door with a witness; and
- The Landlord's Application for Dispute Resolution which was made on February 5, 2014 requesting an Order of Possession.

Analysis

I have reviewed the documentary evidence and I accept that the landlord's agent, who made this application, is acting on behalf of the landlord as evidenced by the written tenancy agreement and the notice to end tenancy.

I also find that the tenant was served with the notice to end tenancy by posting it to the tenant's door with a witness. The Act states that documents are deemed to have been served 3 days after such posting. Therefore, I find that the tenant was deemed to be served the notice on January 13, 2014.

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. As a result, the landlord is entitled to an Order of Possession.

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 if the tenant fails to vacate the rental unit.

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: February 12, 2014

Residential Tenancy Branch

