



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution 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 Proceeding which declares that on February 25, 2014 at 3:25 p.m. the Landlord personally served each named Respondent with the Notice of Direct Request Proceeding. by registered mail. Based on the written submissions of the Landlord, I find that each named Tenant was sufficiently served with the Direct Request hearing documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each named Tenant;
- A copy of a residential tenancy agreement which was signed by the Landlord's Agent and the Tenant C.S. The other named Tenant, D.M. did not sign the tenancy agreement. The tenancy agreement was for a fixed term tenancy that began on December 1, 2011 and switched to a month to month tenancy after November 30, 2012, for the monthly rent of \$900.00 due on the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 6, 2014, with an effective vacancy date listed as February 16, 2014, due to \$900.00 in unpaid rent that was due on February 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on February 16, 2014, at 5:15 p.m. when it was posted to their door, in the presence of a witness.

Analysis

I have reviewed all documentary evidence and note that Tenant D.M. did not sign the tenancy agreement, however Tenant C.S. did sign. Therefore, as this application has been filed under the Direct Request process I find it can only proceed against Tenant C.S., who is a signatory to the tenancy agreement. Therefore, I dismiss the claim against Tenant D.M., without leave to reapply.

I accept that the Tenant has been served with notice to end tenancy as declared by the Landlord. The notice is deemed to be received by the Tenant on February 19, 2014, three days after it was posted to the door, and the effective date of the notice is March 1, 2014, pursuant to section 46 of the *Act*. 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*.

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 and I hereby grant the Landlord an Order of Possession.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **March 1, 2014, after service on the Tenant**. This Order is legally binding and must be served upon the Tenant.

The claim against D.M. is HEREBY DISMISSED, without leave to reapply.

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 27, 2014

Residential Tenancy Branch

