



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 23, 2014 the landlord sent the Notice of Direct Request to the tenant via registered mail at the rental unit. The landlord provided a registered mail receipt, including tracking number, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlord, 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 and monetary compensation for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on August 31, 2014, indicating a monthly rent of \$750.00 due on the 1st day of every month for a fixed term of six months;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 8, 2014 with a stated effective vacancy date of February 18, 2014, for \$425.00 in unpaid rent as of February 1, 2014;

- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on February 8, 2014 in the presence of a witness; and,
- A copy of the tenant's ledger showing the outstanding balance of \$425.00 is comprised of rent of \$400.00 and an NSF fee of \$25.00.

The 10 Day 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.

In the details of dispute the landlord states that the tenant failed to pay the outstanding rent for February 2014.

Analysis

Upon review of all documentary evidence, I accept that the tenant was served with a 10 Day Notice to End Tenancy as declared by the landlord. Since the Notice was posted on the tenant's door it is deemed to be received by the tenant three days later pursuant to section 90 of the Act. Accordingly, the effective vacancy date automatically changes to February 21, 2014 under section 53 of the Act.

I accept the evidence before me that the tenant failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, 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 tenancy ended February 21, 2014 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$400.00 for the month of October 2013. I make no award for an NSF fee since section 55(4) limits monetary orders to unpaid rent only. The landlord is at liberty to reapply for NSF fees or any other damages or loss related to this tenancy by way of a subsequent Application for Dispute Resolution.

The landlord is provided a Monetary Order for this amount to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court.

The security deposit remains in trust to be administered in accordance with the Act.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$400.00 to serve upon the tenant.

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: March 07, 2014

Residential Tenancy Branch

