



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 a Landlord's application 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 the Landlord served the Tenant with the Notice of Direct Request by registered mail, pursuant to section 89(1) (c) of the Act. The Landlord provided the Canada Post tracking number as evidence for this method of service. Section 90(a) of the Act states that a document served by mail is deemed to have been received five days after it is mailed. Based on this, I find the Tenant was deemed served with the Notice of Direct Request Proceeding five days after it was mailed pursuant to the Act.

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 residential tenancy agreement signed by the Landlord and the Tenant on December 1, 2011 for a tenancy commencing on December 12, 2011. Rent is payable by the Tenant in the amount of \$1,100.00 on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on March 2, 2014 with an effective vacancy date of March 12, 2014 due to \$2,175.00 in unpaid rent due on March 1, 2014 (both pages of the 2 page approved form were provided as evidence);

- 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 March 2, 2014. The Tenant signed the Proof of Service document acknowledging receipt of the notice to end tenancy; and,
- The Landlord's Application for Dispute Resolution which was made on March 11, 2014 claiming \$2,175.00 of outstanding rent for February and March, 2014.

Analysis

I have reviewed the documentary evidence and accept that the Tenant was personally served with the notice to end tenancy, which complied with the Act, based on the Tenant's own signed acknowledgment.

I accept the evidence before me that the Tenant has failed to dispute the notice or pay the rent owed on the notice 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 favor 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.

I further grant a Monetary Order in the amount of **\$2,175.00** in favor 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.

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 17, 2014

Residential Tenancy Branch

