



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 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.

Preliminary Matter

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding. The Proof of Service document indicates that the Landlord served both of the Tenants with the Notice of Direct Request Proceeding on March 11, 2014 at 12:50 p.m. in the following manner: “**with the tenant** at [the rental unit]”.

The Landlord did not indicate which Tenant was served. I find there is insufficient evidence that both of the Tenants were served and therefore this portion of the Landlord’s Application is **dismissed with leave to reapply**.

I find that the Notice of Direct Request Proceeding was sufficiently served for the purposes of requesting an Order of Possession.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;
- A copy of a residential tenancy agreement which was signed by the parties on December 3, 2013, indicating a monthly rent of \$875.00 due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 4, 2014, with a stated effective vacancy date of March 18, 2014, for \$875.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving the document with the Tenants at the rental unit on March 4, 2014, at 5:15 p.m. with the police present. The Proof of Service document is signed by a witness.

The Tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that Notice to End Tenancy was given to the Tenants on March 4, 2014.

I accept the evidence before me that the Tenants 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 Tenants are 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 Landlord is entitled to an Order of Possession.

Conclusion

Pursuant to the provisions of Section 55 of the *Act*, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenants. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

The Landlord's application for a Monetary Order is dismissed **with 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: March 18, 2014

Residential Tenancy Branch

