



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLYVAN URBAN PROPERTIES LTD
and [tenant name suppressed to protect privacy]

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 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 the Landlord served each Tenant with the Notice of Direct Request by registered mail on March 28, 2014 and provided the Canada Post tracking numbers 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 5 days after it is mailed. Based on this, I find the Tenants were deemed served with the Notice of Direct Request Proceeding on April 2, 2014.

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 signed by the Landlord and the Tenants on October 24, 2012 for a tenancy commencing on November 1, 2012. Rent of \$2,375.00 is payable by the Tenants on the first day of each month;
- A copy of a 2 page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) completed on January 15, 2014 with an effective vacancy date of January 25, 2014 due to \$4,825.00 in unpaid rent due on December 1, 2013;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenants on January 30, 2014, by attaching it to the Tenants’ door with a witness; and

- The Landlord's Application for Dispute Resolution made on March 28, 2014 requesting an Order of Possession based on unpaid rent.

Analysis

I have reviewed the documentary evidence and I accept that the Landlord served the Tenants on January 30, 2014 with the Notice, which complied with the Act, by attaching it to the Tenants' door with a witness. The Act states that documents served this way are deemed to have been received three days after being attached to the door.

Therefore, I find that the Tenants were deemed to be served the Notice on February 2, 2014 and the effective date of vacancy on the Notice is automatically corrected to February 12, 2014 pursuant to section 53 of the Act.

I accept the evidence before me that the Tenants have failed to dispute the Notice or pay the rent within the 5 days provided under Section 46(4) of the Act. Therefore, 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. 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 Tenants**. This order may then be filed and enforced in the Supreme Court as an order of that court if the Tenants fail to vacate the rental unit in accordance with the order.

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: April 03, 2014

Residential Tenancy Branch

