



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTWOOD RIDGE DEVELOPMENT CORPORATION
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 and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that on April 22, 2014 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 a copy of the Canada Post tracking number as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on April 27, 2014.

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 tenancy agreement signed by the Tenant and Landlord on October 30, 2009 for a tenancy commencing on November 6, 2009. The monthly rent at the start of the tenancy was \$1,450.00 payable by the Tenant on the first day of each month;
- A Notice of Rent Increase showing the rent was increased on November 10, 2011 by \$25.00 to \$1,475.00 payable by the Tenant starting on March 1, 2012;

- A Notice of Rent Increase showing the rent was increased on December 16, 2012 by \$30.00 to \$1,505.00 payable by the Tenant starting on April 1, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on April 4, 2014 with an effective vacancy date of April 19, 2014 due to \$1,505.00 in unpaid rent due on April 1, 2014 (both pages of the two page approved form were provided);
- A copy of the Proof of Service of the Notice stating the Landlord served the Notice to the Tenant on April 4, 2014 by registered mail. The Landlord provided the Canada Post tracking number as evidence for this method of service; and
- The Landlord's Application for Dispute Resolution which was made on April 17, 2014 claiming \$1,505.00 in outstanding rent;

Analysis

I have reviewed the documentary evidence and accept that the Landlord served the Tenant with a Notice that complied with the Act, by registered mail on April 4, 2014. The Act states that documents served this way are deemed to have been received five days after they are mailed. Therefore, I find that the Tenant was deemed to be served the Notice on April 9, 2014.

I accept the evidence before me that the Tenant has failed to dispute the Notice or pay the outstanding 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 and the Landlord is entitled to an Order of Possession and a Monetary Order.

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 enforced in the Supreme Court as an order of that court if the Tenant fails to vacate the rental unit.

I further grant a Monetary Order in the amount of **\$1,505.00** 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 if the Tenant fails to make payment.

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 28, 2014

Residential Tenancy Branch

