



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pikestaff Contracting
and [tenant name suppressed to protect privacy]

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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 4, 2014 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided a Canada Post receipt and tracking number as evidence of service. The Canada Post receipt provided as evidence of service indicated the City and postal code used, but did not indicate the street address. I have concluded that, on the balance of probabilities, the landlord used the tenant's street address as the service address.

Therefore, I find, pursuant to section 90 of the Act determines that each tenant has been served with the Direct Request Proceeding documents on the 5th day after mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary Order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each tenant;
- A copy of a residential tenancy agreement which was signed by the parties on November 5, 2013, indicating a monthly rent of \$980.00 due on the first day of the month;

- A list of rent payments made between December 2013 and April 1, 2014; all rejected due to non-sufficient funds; and
- A copy of a 10 day Notice to end tenancy for unpaid rent or utilities which was issued on March 17, with a stated effective vacancy date of March 31, 2014, for \$980.00 in unpaid rent due March 1, 2014.

Documentary evidence filed by the landlord indicates that the tenants failed to pay rent owed and were each served the 10 day Notice to end tenancy for unpaid rent or utilities by registered mail on March 17, 2014. The landlord supplied copies of Canada Post delivery confirmation that show the mail was accepted by the tenants on March 19, 2014.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$980.00 within 5 days after the tenants were assumed to have received the Notice. The Notice also indicated that the tenants were presumed to have accepted that the tenancy was ending and that the tenants must move out of the rental by the date set out in the Notice unless the tenant files an Application for Dispute Resolution within 5 days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord.

The Notice is deemed to have been received by the tenants on March 19, 2014; the date the tenants signed accepting the registered mail.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenants received this Notice on March 19, 2014, I find that the earliest effective date of the Notice is March 29, 2014.

In the absence of evidence to the contrary, I find that the tenants were served with a Notice ending tenancy that required the tenants to vacate the rental unit on March 31, 2014; the date indicated on the Notice.

Section 46 of the Act stipulates that a tenant has 5 days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice.

In the circumstances before me I have no evidence that the tenants exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenants are conclusively presumed to have accepted that the tenancy has ended on the effective date of the Notice; March 31, 2014.

Therefore, I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of possession effective **two days after service** on the tenants. The Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation, pursuant section 65 of the Act, in the amount of \$980.00 rent owed and I grant an Order in that amount. This Order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

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 14, 2014

Residential Tenancy Branch

