



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAXSAVE REAL ESTATE SERVICES 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 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 May 20, 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 receipt 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. A party cannot avoid service through a failure or neglect to pick up mail or use this as grounds for a review. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on May 25, 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 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 September 12, 2013 for a tenancy commencing on September 15, 2013. The monthly rent is \$700.00 payable by the Tenant on or before the first calendar day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on May 2, 2014 with an effective vacancy date of May 12, 2014 due to \$800.00 in unpaid rent due on May 1, 2014 (both pages were provided);

- A copy of the Proof of Service of the Notice which declares the Notice was served on May 2, 2014 by attaching it to the Tenant's door with a witness;
- The Landlord's Application for Dispute Resolution made on May 15, 2014 claiming \$100.00 in outstanding rent for April, 2014 and \$700.00 for May, 2014.

Analysis

I have reviewed the documentary evidence and accept that the Landlord served the Tenant with a Notice that complied with the Act, by attaching it to the Tenant's door with a witness on May 2, 2014. 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 Tenant was deemed to be served the Notice on May 5, 2014 and the effective date of vacancy on the Notice is corrected to May 15, 2014 pursuant to section 53 of the Act.

I accept the evidence before me that the Tenant has failed to dispute the Notice or pay the outstanding rent owed within the five 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.

I also grant the Landlord a Monetary Order in the amount of **\$800.00** 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: May 26, 2014

Residential Tenancy Branch

