



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST DECISION

Dispute Codes:

OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 16, 2014 at 5:10 p.m., the landlord served the tenant with the Notice of Direct Request Proceeding in person.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 55 and 67 of the Act?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 5, 2014 for \$950.00 in rental arrears,
- A copy of a residential tenancy agreement which was signed by the parties on February 8, 2013, confirming that the rent is \$850.00 per month.

Documentary evidence filed by the landlord indicates that the tenant had accrued a total amount of arrears of \$950.00. In the box under “Details of the Dispute”, the landlord indicates that “*May rent is 950.00 remains unpaid*”.

No tenant ledger was submitted into evidence.

The landlord is seeking \$950.00 in compensation and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Analysis

Based on the evidence before me, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent in person on May 5, 2014. The Notice states that the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within five days and did not pay the arrears within five days.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts, I find that the landlord is entitled to an Order of Possession.

With respect to the monetary claim, I find that the arrears shown on the application and on the copy of the 10-Day Notice to End Tenancy for Unpaid Rent were \$950.00. However, this claim is not consistent with the monthly rental rate of \$850.00 indicated in the tenancy agreement and there is no explanation regarding the disparity between the two amounts.

While I accept that the tenant is in arrears for rent, I find that the landlord has not included sufficient evidence in regard to the amount of the monetary claim sufficient to award compensation through the direct request process.

Given the above, I find that the landlord’s monetary claim is must be dismissed as it lacks sufficient details to determine the reason for the difference in the rent charge of \$950.00 for May 2014 and the monthly rental rate of \$850.00 shown on the tenancy agreement.

I hereby grant the landlord an Order of Possession effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby order that the portion of the landlord’s direct request application relating to the monetary claim is dismissed without leave.

Conclusion

The landlord is partly successful in the application and is granted an Order of Possession. The claim for monetary compensation is dismissed without leave.

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 27, 2014

Residential Tenancy Branch

