



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 landlords for an Order of Possession and a monetary order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 8, 2014, the landlords served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. Based on the written submissions of the landlords I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 22, 2014, indicating a monthly rent of \$1,400.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 2, 2014, with a stated effective vacancy date of May 12, for \$2,050.00 in unpaid rent for April and May.

Documentary evidence filed by the landlords indicates that the tenant had failed to pay all rent owed for April and none for May, and was served the 10 Day Notice to End

Tenancy for Unpaid Rent by personal delivery, which was witnessed on May 2, 2014. The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlords write in their Application that there was a balance due of \$650.00 for April rent and \$1,400.00 in rent due for May, for a total of \$2,050.00 owed when the Notice was issued. Subsequently the tenant paid \$500.00 towards the balance, although as there were still rent monies owed, the landlords issued a receipt for use and occupancy only, indicating the payment did not reinstate the tenancy.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlords. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the Act. Based on the foregoing, 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. Therefore, I find that the landlords are entitled to an Order of possession and a monetary Order for unpaid rent.

Conclusion

I find that the landlords are entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlords are entitled to monetary compensation pursuant section 67 in the amount of **\$1,550.00** comprised of rent owed. This Order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 21, 2014

Residential Tenancy Branch

