



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SANFORD HOUSING SOCIETY
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 27, 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 and mailing 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 failure of neglect to pick up registered mail is not grounds to avoid service or form the basis of a review application. As a result, I find that the Tenant was deemed served with Notice of Direct Request Proceeding on June 1, 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 11, 2013 for a tenancy commencing on November 1, 2013. The monthly rent

payable is \$1,146.00 in advance on or before the first calendar day of each month. The Tenant is required to pay a portion of this amount which is referred to in the agreement as the 'Tenant Rent Contribution';

- A letter from the Landlord dated August 9, 2013 showing the Tenant's rent contribution towards the above total amount was calculated at \$375.00 payable for the period of December 1, 2013 to November 30, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on May 14, 2014 with an effective vacancy date of May 26, 2014 due to \$385.00 in unpaid rent due on May 1, 2014 (both pages of the 2 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 May 14, 2014 by attaching it to the Tenant's door with a witness; and
- The Landlord's Application for Dispute Resolution which was made on May 27, 2014 claiming \$375.00 in outstanding rent for May, 2014 and \$10.00 for a telephone charge. The Landlord explains in the details section that the Tenant's Rent Contribution that is payable each month is \$375.00.

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 14, 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 17, 2014 and the effective vacancy date on the Notice is corrected to May 27, 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 rent in the amount of \$375.00 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 for unpaid rent.

In relation to the Monetary Order, based on the Landlord's evidence relating to the Tenant's rent contribution payable, I accept the Landlord's evidence that the Tenant has not paid this amount of \$375.00. As a result, I award the Landlord \$375.00 in unpaid rent.

The Landlord also claims \$10.00 in telephone charges payable by the Tenant. However, the Direct Process can only be utilized by Landlords for claims relating to unpaid rent only. Therefore, this portion of the Landlord's monetary claim is dismissed with leave to reapply.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the Landlord effective **two 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 **\$375.00** in favour 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 Act.

Dated: June 09, 2014

Residential Tenancy Branch

