



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 a Landlord’s application 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 the Landlord served each Tenant with the Notice of Direct Request by registered mail on June 16, 2014 and provided the Canada Post tracking receipts as evidence for this method of service. Section 90(a) of the Act states that a document served by mail 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 and neither can this form the basis of a review application. Based on this, I find the Tenants were deemed served with the Notice of Direct Request Proceeding on June 21, 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 Tenants for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord on May 1, 2014 and the Tenants on May 2, 2014 for a tenancy commencing on May 1, 2014. The agreement shows that rent in the amount of \$950.00 is payable by the Tenants on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) issued on June 5, 2014 with an effective vacancy date of June 18, 2014 due to \$950.00 in unpaid rent payable on June 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenants on June 2, 2014 by attaching it to the Tenants’ door with a witness; and

- The Landlord's Application for Dispute Resolution made on June 16, 2014 claiming outstanding rent of \$950.00 for June, 2014.

Analysis

I have reviewed the documentary evidence and I accept that the Tenants were served with the Notice, which complied with the Act, by attaching it to the Tenants' door with a witness. 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 Tenants were deemed to be served the Notice on June 8, 2014.

I accept the evidence before me that the Tenants failed to dispute the Notice or pay the rent owed on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice. As a result, 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 Tenants**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$950.00** in favor of the Landlord pursuant to Section 67 of the Act. 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.

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: June 22, 2014

Residential Tenancy Branch

