



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 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 landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 8, 2014 at 12:30 p.m. the landlord served the tenants with the Notice of Direct Request Proceeding by posting the notice on the door of the Tenants' rental unit. Section 89 and the Proof of Service for the Notice of Direct Request Hearing state a request for a monetary order cannot be served by posting it on the door of the rental unit. Therefore I dismiss the Landlord's monetary claim with leave to reapply, but I will continue with the Landlord's request for an Order of Possession as this application can be served by posting it on a door. Section 90 of the Act determines that the document is deemed to have been served three days after a notice has been posted on the door of the rental unit.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;

- A copy of a residential tenancy agreement which was signed by the parties on April 5, 2014, indicating a monthly rent of \$660.00 due in advance of the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 23, 2014 with a stated effective vacancy date of July 5, 2014, for \$660.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants has failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the Notice on the door of the Tenants' rental unit on June 23, 2014 at 9:00 p. m. The Proof of Service of the 10 Day Notice to End Tenancy is supported by a witness signature. The Act deems the tenant was served on June 26, 2014, three days after posting the Notice.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord.

The notice is deemed to have been received by the tenants on June 26, 2014.

I accept the evidence before me that the tenant has failed to pay the rent owed in full with in the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenants are 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 landlord is entitled to an Order of possession.

Conclusion

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court 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: July 14, 2014

Residential Tenancy Branch

