



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 June 24, 2014 at 11:52 a.m., the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent.

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 June 4, 2014 for \$2,200.00 in rental arrears, and
- A copy of a residential tenancy agreement which was signed by the parties on March 5, 2014, confirming that the rent is \$1,100.00 per month, due on the first day of each month.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay \$2,200.00 rent owed for the month of June 2014. The landlord is seeking compensation in this amount 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 by registered mail sent on June 6, 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.

The landlord requested monetary compensation of \$2,200.00. In the “*Details of Dispute*” portion of the application the landlord wrote:

“*TENANT FAIL TO PAY RENT FOR JUNE 2014...*” (*Reproduced as written*)

This would appear to indicate that there was only one month of arrears owed by the tenant, which according to the tenancy agreement would be \$1,100.00. However, both the 10-Day Notice to End Tenancy for Unpaid Rent and the landlord’s application indicate that the tenant is in arrears for \$2,200.00

I find that it is not clear what the landlord’s monetary claim relates to, due to the landlord’s failure to provide a ledger or an explanation. Therefore, I find that it is not possible to accurately determine what these arrears pertain to for the purpose of issuing a monetary order. For this reason, I find that the landlord’s monetary claim must be dismissed.

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

The remainder of the landlord’s application is hereby dismissed without leave.

Conclusion

The landlord is partly successful in the application and is granted an Order of Possession. The monetary portion of the landlord's application is dismissed as the claim is not clear.

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 09, 2014

Residential Tenancy Branch

