



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VERNON NATIVE 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 a Landlord’s application for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service document declaring that each Tenant was personally served with the Notice of Direct Request documents, pursuant to Section 89(1) (a) of the Act. While the Landlord failed to complete the date and time the Notice of Direct Request was served to the Tenants on the Proof of Service document, I accept service was executed by the Landlord based on the completion date of the Proof of Service document (July 9, 2014) and that it was faxed to the Residential Tenancy Branch on the same date the documents had been issued to the Landlord. Furthermore, the Proof of Service document also contains a witness signature who verified that each Tenant had been served personally with the documents.

The Landlord writes on the Proof of Service document that the Notice of Direct Request documents were brought back to their office by the Tenants’ five year old son after being served. A party cannot avoid service by returning documents after they have been personally served to them.

As a result, I am satisfied that the Landlord served the required documents to the Tenants in accordance with the Act.

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 tenancy agreement signed by the Landlord and one of the Tenants on April 16, 2013 and the other Tenant on April 20, 2013. The agreement shows that the tenancy started on May 1, 2013 and the total economic rent is \$1,200.00 per month;
- A supporting document which shows that the Tenants' rent is subsidized and the Tenants' rent contribution has been calculated in the amount of \$785.00 which is payable effective October 1, 2014.
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on July 3, 2014 with an effective vacancy date of July 13, 2014 due to \$785.00 in outstanding rent for July 1, 2014;
- A copy of the Proof of Service of the Notice declaring the Landlord personally served it to the Tenants on July 3, 2014 in the presence of a witness who signed the Proof of Service document verifying this method of service; and,
- The Landlord's Application for Dispute Resolution made on July 9, 2014 claiming outstanding rent in the amount of \$785.00 for July, 2014.

Analysis

I have reviewed the documentary evidence and I accept that the Tenants were both personally served with the Notice, which complied with the Act, on July 3, 2014; this is supported by the Landlord's witness who verified this method of service.

I accept the evidence before me that the Tenants have failed to dispute the Notice or pay the outstanding 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 effective date of the Notice. I therefore find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **two 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 **\$785.00** 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: July 14, 2014

Residential Tenancy Branch

