



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN TEAM REALTY INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 20, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided a registered mail receipt as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlord, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on June 25, 2014.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on February 9, 2014, indicating a monthly rent of \$1,350.00 due on the 15th day of every month for a fixed term expiring February 28, 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 22, 2014 with a stated effective vacancy date of May 2, 2014, for \$1,350.00 in unpaid rent as of April 15, 2014; and,
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord personally served the 10 Day Notice upon the tenant on April 22, 2014 as evidenced by the tenant's signature on the 10 Day Notice.

The 10 Day Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlord is seeking to recover rent not paid when due on April 15, 2014; May 15, 2014; and, June 15, 2014 in the sum of \$4,050.00 less a \$250.00 payment made on June 9, 2014.

Analysis

I have reviewed all documentary evidence and accept that the tenant was served with a 10 Day Notice to End Tenancy in person on April 22, 2014, as declared by the landlord.

I accept the evidence before me that the tenant failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*.

Accordingly, 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. Therefore, I find that the tenancy ended May 2, 2014 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$1,350.00 for the month of April 2014, less the \$250.00 partial payment made by the tenant. The landlord is provided a Monetary Order in the net amount of \$1,100.00 to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. The security deposit remains in trust to be administered in accordance with the *Act*.

Since the tenancy ended May 2, 2014 I find the landlord's request for compensation for rent not paid on May 15, 2014 and June 15, 2014 is a claim for loss of revenue and is not claimable under the Direct Request procedure. Therefore, I dismiss that portion of the landlord's monetary claim with leave to reapply for a participatory hearing.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the net amount of \$1,100.00 to serve upon the tenant. The landlord's claims for loss of rent were dismissed with leave to reapply for a participatory hearing.

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 03, 2014

Residential Tenancy Branch

