



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 landlords for an Order of Possession and a Monetary Order due to unpaid rent and utilities.

The Direct Request process is a mechanism that allows the landlords to apply for an expedited decision without a participatory hearing. As a result, the landlords must follow and submit documentation **exactly** as the *Act* prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 14, 2014 the landlords served the tenants with the Notice of Direct Request Proceeding by registered mail. Section 90 of 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 landlords, I find that the tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on March 01, 2014 for a tenancy beginning March 01, 2014 for the monthly rent of \$1,000.00 due on the 30th of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, July 02, 2014 with an effective vacancy date of July 02, 2014 due to \$1,955.00 in unpaid rent.
- Written submissions that the tenants paid \$1,000.00 on July 12, 2014 and now owe \$955.00 plus \$300.00 for utilities.

Documentary evidence filed by the landlords indicates that the tenants have failed to pay the full rent owed for the months of June and July, 2014 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants' rental unit on July 02, 2014 and therefore is deemed served three days later.

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.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with Notice to End Tenancy as declared by the landlords. The Notice is deemed to have been received by the tenants on July 05, 2014 and the effective date of the Notice is amended to July 15, 2014 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenants paid \$1,000.00 on July 12, 2014 but have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

I have insufficient evidence from the landlords to satisfy the burden of proof that utilities are owed to an amount of \$300.00. The landlords have failed to provide copies of the utility bills

for this amount and consequently I am unable to award an amount for unpaid utilities at this proceeding.

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.

Conclusion

I find that the landlords are entitled to an Order of Possession, pursuant to section 55 of the *Act*, effective **two days after service on the tenants**. This Order must be served on the tenants and may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlords are entitled to monetary compensation, pursuant to section 67 of the *Act*, in the amount of **\$955.00** for rent and utilities owed. 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.

The landlords are at liberty to file a new application to recover unpaid utilities.

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 21, 2014

Residential Tenancy Branch

