



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 due to unpaid rent.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision without a participatory hearing. As a result, the landlord 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 landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 15, 2014 the landlords served the tenant 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 tenant has 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 tenant;
- A copy of a residential tenancy agreement which was signed by the parties on September 30, 2013 for a tenancy beginning October 01, 2013 for the monthly rent of \$850.00 due on the 1st of the month;
- A copy of a rent increase notice effective on May 01, 2014 increasing the rent to \$868.00 per month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, July 06, 2014 with an effective vacancy date of July 19, 2014 due to \$868.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the tenant had failed to pay the full rent owed for the month of July, 2014 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid which was posted in the mailbox of the tenant's rental unit on July 06, 2014 and therefore is deemed served three days later.

The 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.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy as declared by the landlords. The Notice is deemed to have been received by the tenant on July 09, 2014. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, 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.

The landlord appears to have also applied to keep the tenant's security and pet deposits on this application; however, a landlord may not apply for anything other than unpaid rent and an Order of Possession on a Direct Request Proceeding. This matter is therefore dismissed with leave to reapply.

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 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.

I find that the landlords are entitled to monetary compensation, pursuant to section 67 of the *Act*, in the amount of **\$868.00** for rent owed. This Order must be served on the tenant 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 23, 2014

Residential Tenancy Branch

