



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 445566BCLTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that at 10:38 a.m. on August 15, 2014, the landlord personally served the tenants with the Notice of Direct Request Proceeding at the rental unit.

Based on the written submissions of the landlord, I find that both the tenants have been duly served with the Direct Request Proceeding documents.

Issues to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent and to a Monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

Background and Evidence

The landlord submitted the following relevant evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant confirming both the tenants were personally served at the rental unit at 10:38 a.m. on August 15, 2014;
- A Monetary Order Worksheet Direct Request which indicates the following rent owing:
 - June 2014 \$950.00;
 - July 2014 \$1,400.00; and
 - August 2014 \$1,400.00,

For a total of: \$3,750.00

(the "Worksheet").

- A copy of a Residential Tenancy Agreement which was signed by the landlord and the female tenant, C.D., on August 27, 2013 indicating a monthly rent of \$1,400.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 2, 2014 with a stated effective vacancy date of August 12, 2014, for \$3,750.00 in unpaid rent and \$131.03 in unpaid utilities due August 1, 2014 (the "10 Day Notice");
- A copy of the 10 Day Notice Proof of Service dated July 23, 2014 and which indicates two methods of service; namely, C.D. was personally served on July 23, 2014, and the 10 Day Notice was also posted to the rental unit door on July 24, 2014

The Notice states that the tenants had five days from the date of service to pay the rent in full 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 from the date of service.

The Landlord crossed out the claim for unpaid utilities on the Worksheet such that only the sum of \$3,750.00 for unpaid rent was claimed. The Landlord also did not provide copies of the utility bill(s) and demand letter(s) sent to the tenants as required.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with the 10 Day Notice as declared by the landlords.

I accept the evidence before me that the tenants have failed to pay all 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 tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the Notice. Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two (2) days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of **\$3,750.00** comprised of rent 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.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: August 22, 2014

Residential Tenancy Branch

