



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
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 for each tenant to declare that the Notice of Direct Request Proceeding was sent to each tenant at the rental unit via registered mail on July 26, 2014. The landlord provided registered mail receipts as proof of service. Section 90 of the Act deems a person to have received documents sent to them five days after mailing.

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

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 28, 2014, indicating a monthly rent of \$900.00 due on the 1st day of every month for a fixed term expiring March 2015;
- A copy of a Rental Incentive Agreement indicating the tenants would receive a credit of \$75.00 per month for the duration of the fixed term, along with certain other terms and conditions;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on July 3, 2014 with a stated effective vacancy date of July 13, 2014, for \$825.00 in unpaid rent as of July 1, 2014; and,
- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenants' door on July 3, 2014 in the presence of a witness.

The 10 Day 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 from the date of service.

In the details of dispute the landlord states that the tenants failed to pay rent of \$825.00 for the month of July 2014, after the monthly incentive is taken into account.

Analysis

I have reviewed all documentary evidence and accept that the tenants were served with a 10 Day Notice to End Tenancy as declared by the landlord. Since it was posted on the tenants' door, pursuant to section 90, it is deemed to be received by the tenants three days after posting. Therefore, the effective date is automatically changed to read July 16, 2014 under section 53 of the Act.

I accept the evidence before me that the tenants 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 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. Therefore, I find that the tenancy ended July 16, 2014 and the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenants.

I find the landlord is entitled to monetary compensation for unpaid rent in the amount of \$825.00 for the month of July 2014, as requested. The landlord is provided a Monetary Order for this amount to serve upon the tenants. 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.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants. The landlord is provided a Monetary Order in the amount of \$825.00 to serve upon the tenants.

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: August 12, 2014

Residential Tenancy Branch

