



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 a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the “Act”) in response to a Landlord’s application for an Order of Possession for unpaid rent.

The Landlord submitted a signed Proof of Service for each Tenant declaring that the Notice of Direct Request Proceeding was served to each Tenant personally on August 8, 2014 in the presence of a witness who signed the document to verify this method of service. As a result, I am satisfied that the Tenants were served with the Notice of Direct Request Proceeding documents in accordance with Section 89(1) (a) of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent?
Has the Landlord established a monetary claim against the Tenants for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and the Tenants on October 15, 2013 for a tenancy commencing on the same day. The agreement requires the Tenants to pay rent in the amount of \$950.00 per month on the **first** day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) issued on June 18, 2014 with an effective vacancy date of June 28, 2014 due to \$950.00 in unpaid rent due on June 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenants on June 18, 2014 by attaching it to the Tenants’ door with a witness who signed to verify this method of service;

- The Landlord's Application for Dispute Resolution made on August 7, 2014 requesting an Order of Possession for unpaid rent; and
- A rent receipt dated June 28, 2014 which shows that the Landlord accepted rent from the Tenants on this day in the amount of \$950.00 for use and occupancy only and indicates that the Tenants **must** vacate the rental unit.

Analysis

I have reviewed the documentary evidence and I accept that the Tenants were served with the Notice on June 18, 2014, which complied with the Act, by attaching it to the Tenants' door with a witness. Section 90(c) of the Act explains that documents served this way are deemed to have been received three days after being attached to the door. Therefore, I find that the Tenants were deemed to be served the Notice on **June 21, 2014** and the effective date of vacancy on the Notice is automatically corrected to July 1, 2014 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenants failed to dispute the Notice or pay the outstanding rent **within the five days (by June 26, 2014)** provided under Section 46(4) of the Act. I also find that while the Tenants did pay the outstanding rent outside of the five day period allowed under the Act, the Landlord provided the Tenants with a receipt informing them that the rent was being accepted so as to not re-instate the tenancy. As a result, 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 date of the Notice and the Landlord is entitled to an Order of Possession.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **2 days after service on the Tenants**. This order may then be filed and enforced in the Supreme Court 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: August 18, 2014

Residential Tenancy Branch

