



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 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 the Tenant was served with the Notice of Direct Request Proceeding by registered mail on August 12, 2014, pursuant to Section 89(1) (c) of the Act. The Landlord provided the Canada Post tracking receipt as evidence for this method of service. Section 90(a) of the Act states that a document served by mail is deemed to have been received five days after it is mailed. A party cannot avoid service through a neglect or failure to pick up mail or use this reason alone as grounds for a review. Based on this evidence and the provisions of the Act, I find the Tenant was deemed served with the Notice of Direct Request Proceeding on August 17, 2014.

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 Tenant for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlord and the Tenant on March 12, 2014 for a tenancy commencing on March 15, 2014. Rent under the agreement is payable in the amount of \$940.00 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 August 2, 2014 with an effective vacancy date of August 12, 2014 due to \$1,180.00 in unpaid rent due on August 1, 2014;

- A copy of the Proof of Service of the Notice showing the Landlord served the Notice to the Tenant on August 2, 2014 in the presence of a witness who signed the document verifying this method of service; and,
- The Landlord's Application for Dispute Resolution which was made on August 11, 2014 claiming a total of \$1,180.00 comprising of \$240.00 outstanding rent for July, 2014 and \$940.00 unpaid rent for August, 2014.

Analysis

I accept the written evidence of the Landlord and the witness that the Tenant was personally served with the Notice, which complied with the Act, on August 2, 2014.

I also accept that the Tenant failed to dispute the Notice or pay the rent owed on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice. I therefore find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

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 Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$1,180.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may then be filed in the Small Claims Court 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: August 18, 2014

Residential Tenancy Branch

