



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

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 landlords for an Order of Possession.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 18, 2014, the landlord served the tenants with the Notice of Direct Request Proceeding via posting on the door.

Section 90 of the Act determines that documents served in this manner are deemed to have been served three days later, whether or not the tenants refuse or neglect to accept the documents.

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

Issue to be Decided

The issue to be decided is whether the landlord is entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the Act.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on January 31, 2014, indicating a monthly rent of \$725.00 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 July 2, 2014 with a stated effective vacancy date of July 15, 2014, for \$725.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door. Section 90 of the Act deems the tenants were served on July 5, 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.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with the notice to end tenancy as declared by the landlord.

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 effective date of the Notice. Therefore, I find that the landlord is entitled to an Order of possession.

Conclusion

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

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*.

