Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

Introduction

This matter was conducted 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.

The Landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on September 11, 2014, at 3:15, the Landlord mailed the Notice of Direct Request Proceeding by registered mail to each of the Tenants at the rental unit. The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence.

Based on the Landlord's written submissions, I find that both of 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 a Monetary Order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each of the Tenants;

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;

- A copy of a residential tenancy agreement which was signed by the Landlord and the Tenant LK on April 19, 2014, indicating a monthly rent of $900.00 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 September 2, 2014, with a stated effective vacancy date of September 12, 2014, for $900.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document to the Tenants' door on September 2, 2014, at 3:00 p.m. The Proof of Service document is signed by a witness.

The Tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

The tenancy agreement is signed by the Tenant LK, but not by the Tenant BN. Therefore, I find that there is insufficient evidence that the Tenant BN is a tenant under the tenancy agreement. The Landlord's application against the Tenant BN is dismissed.

I have reviewed all documentary evidence and accept that Notice to End Tenancy was posted to the Tenant LK's door on September 2, 2014. Service in this manner is deemed to be effected 3 days after posting the document, in this case September 5, 2014.

I accept the evidence before me that the Tenant LK failed to pay the rent owed in full within the 5 days granted under Section 46 (4) of the *Act*.

Section 53 of the Act provides that an incorrect end-of-tenancy date on a notice to end tenancy is automatically corrected to the earliest date that complies with the Act. Based on the foregoing, I find that the Tenant LK is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on September 15, 2014.

Therefore, I find that the Landlord is entitled to an Order of Possession and a Monetary Order against the Tenant LK in the amount of **$900.00**.

Conclusion

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenant LK. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

Pursuant to the provisions of Section 67 of the Act, I hereby provide the Landlord with a Monetary Order in the amount of **$900.00** for service upon the Tenant LK. This Order may be filed in the Provincial Court (Small Claims) 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: September 17, 2014

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Residential Tenancy Branch