



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ambassador Apartments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

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 landlord 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 on September 16, 2014, the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail.

Section 90 of the Act determines that a document served in this manner is deemed to have been received 5 days after service.

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

Issues to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to 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 Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the tenants on May 12, 2012 and was not signed by the original owner, indicating that the tenants are obligated to pay \$850.00 in rent in advance on the first day of the month;

- A copy of a notice of rent increase which raised the rent to \$868.00 effective August 1, 2014;
- A copy of documents showing that the original owner sold the rental unit to the applicant landlord on February 12, 2014;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlord served on the tenants on September 5, 2014 for \$468.00 in unpaid rent due in the month of *;
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenants by posting the Notice to the door of the rental unit; and
- A statement that the landlord received a \$140.00 payment from the tenants on September 15, 2014 leaving a balance owing of \$328.00.

Section 90 of the Act provides that because the Notice was served by posting, the tenants are deemed to have received the Notice 3 days later on September 8, 2014.

The Notice restates section 46(4) of the Act which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution. The tenants did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay all of the rental arrears.

Analysis

Although the original owners did not sign the tenancy agreement, I find that a binding agreement existed between the owners and the tenants.

I find that the tenants received the Notice on September 8, 2014. I accept the landlord's undisputed evidence and I find that the tenants did not pay all of the rental arrears and did not apply to dispute the Notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession which must be served on the tenants. Should the tenants fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the evidence before me that the tenants have failed to pay \$328.00 in rent for the month of September. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$328.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession and a monetary order for \$328.00.

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 25, 2014

Residential Tenancy Branch

