



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RE/MAX FRONT STREET REALTY and ALEXANDRIA HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted in response to a Landlord's Application for Direct Request for an Order of Possession and a Monetary Order for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlord's agent submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 24, 2014 the Landlord's agent served each Tenant with the Notice of Direct Request by registered mail, pursuant to Section 89(1) (c) of the Act.

The Landlord's agent provided a copy of the Canada Post tracking receipts as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this reason alone as grounds for a review. As a result, I find that the Tenants were deemed served with these documents on October 29, 2014.

Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession for unpaid rent?
- Have the Landlords established a monetary claim for unpaid rent?

Background and Evidence

The Landlord's agent submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlord and the Tenants on March 1, 2014 for a tenancy commencing on the same day. The tenancy agreement establishes rent payable in the amount of \$750.00 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 October 14, 2014 with an effective vacancy date of October 24, 2014 due to \$1,495.00 in unpaid rent due on October 1, 2014;

- A copy of the Proof of Service of the Notice which shows the Landlord's agent served the Notice to the Tenants on October 14, 2014 by attaching it to the Tenants' door with a witness who signed the document to verify this method of service;
- The Application for Direct Request made on October 24, 2014 claiming rental arrears of \$1,495.00. The Monetary Order Worksheet shows a claim of \$745.00 relating to unpaid rent for August, 2014 and \$750.00 unpaid rent for October, 2014.

Analysis

I have reviewed the written evidence and I accept that the Tenants were served with the Notice, which complied with the Act, by attaching it to their door with a witness. Section 90(c) of the Act states 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 October 17, 2014 and the effective date of vacancy on the Notice is automatically corrected to October 27, 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 on the Notice within the five days provided under Section 46(4) of the Act. Therefore, 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 vacancy date of the Notice. As a result, the Landlords are entitled to an Order of Possession and a Monetary Order.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlords 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.

I further grant a Monetary Order in the amount of **\$1,495.00** in favor of the Landlords pursuant to Section 67 of the Act. 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 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: October 30, 2014

Residential Tenancy Branch

