



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 documents which declares that on September 30, 2014 the Landlord served the Tenant with the Notice of Direct Request by registered mail to the Tenant's rental unit, pursuant to Section 89(1) (c) of the Act. The Landlord provided a copy of the Canada Post tracking receipt 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 Tenant was deemed served with these documents on October 5, 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 October 5, 2011 for a tenancy commencing on the same date. Rent in the amount of \$625.00 was payable by the Tenant at the start of the tenancy on the first day of each month;

- A Notice of Rent Increase, dated March 24, 2013 showing the rent at the time was \$625.00 and was being increased by \$25.00 to \$650.00, payable by the Tenant starting on July 1, 2013;
- A second Notice of Rent Increase, dated March 16, 2014 showing the rent at the time was \$650.00 and was being increased by \$10.00 to \$660.00, payable by the Tenant starting on July 1, 2014;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on September 2, 2014 with an effective vacancy date of September 12, 2014 due to \$430.00 in unpaid rent due on September 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to an adult who apparently lives with the Tenant. A witness for the Landlord signed the Proof of Service document to verify this method of service;
- The Landlord's Application for Dispute Resolution made on September 29, 2014 claiming unpaid rent of \$430.00 outstanding for September, 2014; and
- A Monetary Order Worksheet document which explains that on September 1, 2014, the Tenant paid \$230.00 towards the rent due of \$660.00, leaving an outstanding balance of \$430.00 which is the amount claimed by the Landlord.

Analysis

Based on the Notice of Rent Increase documents, I accept that the rent amount payable under the tenancy agreement changed throughout the tenancy to the current amount payable by the Tenant in the amount of \$660.00.

I have reviewed the documentary evidence and I accept that the Tenant was personally served with the Notice, which complied with the Act, on September 2, 2014 in accordance with Section 88(e) of the Act.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent 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. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order for the outstanding amount of rent claimed.

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 **\$430.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant 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 06, 2014

Residential Tenancy Branch

