



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on September 23, 2014, the landlord served the tenants with the Notices of Direct Request Proceeding via registered mail.

Section 90 of the Act provides that a document served in this manner is deemed to have been received five 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:

- Copies of the Proofs of Service of the Notice of Direct Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties, indicating that the tenants are obligated to pay \$900.00 in rent in advance on the first day of the month;

- A copy of a Notice of Rent Increase indicating the rent amount rose to \$938.00 effective February 1, 2012;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") dated September 2, 2014 which states the tenants failed to pay rent of \$1,551.00 that was due on September 1, 2014. The landlord's ledger indicates that at the date of the Notice the tenants had failed to pay \$563.00 rent from August 2014 and \$938.00 rent for September 2014 and the landlord had applied two \$25.00 late fees (totaling \$1,551.00); and
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenants on September 2, 2014 by personal service.

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 says the tenants paid only a portion of the rental arrears. The landlord's ledger indicates the tenants paid \$650.00 on September 5, 2014 and \$588.00 on September 9, 2014 leaving an outstanding balance for rent of \$263.00.

Analysis

I find that the tenants received the Notice on September 2, 2014. I accept the landlord's evidence and I find that the tenants did not pay the full 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 failed to pay \$263.00 in rent for the month of September 2014. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$263.00. 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 \$263.00.

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: October 02, 2014

Residential Tenancy Branch

