



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST DECISION

Dispute Codes: OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 18, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 55 and 67 of the Act?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on September 2, 2014 showing that the tenant is \$600.00 in rental arrears,
- A monetary worksheet showing that the tenant is in arrears for \$1,000.00 for rent for September 2014,
- A copy of a residential tenancy agreement which was signed by all of the parties on August 12, 2013, confirming that the rent is \$1,000.00 per month, due on the first day of each month.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay rent owed for the month of September 2014. Although the landlord is seeking

compensation of \$1,000.00 and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent, the 10-Day Notice to End Tenancy for Unpaid Rent dated September 2, 2014 indicates that the tenant is only \$600.00 in arrears.

Analysis

Based on the evidence before me, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent posted on the door on September 2, 2014. The Notice states that the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within five days and did not pay the arrears within five days.

I find that the tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Given the above facts, I find that the landlord is entitled to an Order of Possession.

In regard to the claim for monetary compensation for rental arrears, under section 67 of the Act, I find that the amount shown on the September 2, 2014 10-Day Notice to End Tenancy for Unpaid Rent is not consistent with the amount shown on the monetary worksheet as owed for the month of September 2013. For this reason, I must dismiss the monetary claim as it is not sufficiently clear, and I do so with leave to reapply.

However, I hereby grant the landlord an Order of Possession effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord is partly successful in the application and is granted an Order of Possession. The landlord's monetary claim is dismissed with leave to reapply.

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 09, 2014

Residential Tenancy Branch

