



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORTHERN PROPERTY LIMITED PARTNERSHIP
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 which declares that on November 21, 2014 the Tenant named on the Application was personally served with the Notice of Direct Request proceeding, pursuant to Section 89(1) (a) of the Act.

The Landlord also submitted a separate Proof of Service document relating to another Tenant who is not named on the Landlord's Application and there is no explanation or reasons why this document was submitted.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlord (at the time the tenancy was entered into) and the Tenant in February, 2012 for a tenancy commencing on March 1, 2012. The agreement establishes rent payable each month at the start of the tenancy in the amount of \$800.00 due on or before the first calendar day of each month.

- A Notice of Rent Increase, dated August 27, 2013 showing the rent at the time was \$800.00 and was being increased by \$30.40 to \$830.40, payable by the Tenant starting on December 1, 2013;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on November 4, 2014 with an vacancy date of November 17, 2014 due to \$1,437.80 in unpaid rent due on November 1, 2014;
- A copy of the Proof of Service of the Notice which shows the Landlord's agent served the Notice on November 4, 2014 by attaching it to the Tenant's door with a witness who signed to verify this method of service;
- The Landlord's Application for Direct Request (the "Application") made on November 19, 2014 claiming **\$1,437.80** for unpaid rent. The Monetary Order Worksheet indicates that the Tenant only paid a partial amount of rent for the month of September, 2014 in the amount of \$243.00 leaving an outstanding balance of \$597.40. In addition the Tenant failed to pay any rent for the period of October, 2014 in the amount of \$840.40; and
- Documentation relating to the purchase of the rental suite by the current Landlord named on the Application from the previous Landlord indicated on the tenancy agreement.

Analysis

Based on the documentation provided by the Landlord named on the Application, I am satisfied that this Landlord purchased the property and took over this tenancy and is indeed the current Landlord of the Tenant.

I have reviewed the evidence and I accept that the Landlord served the Tenant with a Notice which complied with the Act, by attaching it to the Tenant's door with a witness on November 4, 2014. 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 Tenant was deemed to be served the Notice on November 7, 2014.

I accept the evidence before me that the Tenant has failed to dispute the Notice or pay rent within five days after being served with the Notice as required by 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 and the Landlord is entitled to an Order of Possession.

In relation to the Landlord's claim for a Monetary Order for unpaid rent, I find that the Landlord has only proved that the rent payable at the start of the tenancy was \$800.00 which was increased through a legal Notice of Rent Increase during the tenancy to \$830.40.

The Landlord has failed to explain how the rent payable on the Monetary Order Worksheet was \$840.40 and the Direct Request Application only allows a Landlord to claim unpaid rent and no fees.

Therefore, based on the documentation provided by the Landlord, I am only able to determine that the rent payable under the tenancy at the time the Notice was issued was \$830.40. Therefore, if the Tenant only paid \$243.00 for September, 2014 rent and no rent was paid for October, 2014, then this leaves an outstanding balance of rent in the amount of **\$1,417.80** $((\$830.40 - \$243.00) + \$830.40)$. This is the only amount that I am prepared to award the Landlord for this Application. However, the Landlord is able to apply for any other amounts through the conventional dispute resolution process which involves a participatory hearing.

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 enforced in the Supreme Court as an order of that court.

I also grant the Landlord a Monetary Order in the amount of **\$1,417.80** pursuant to section 67 of the Act. This order must be served on the Tenant and may then 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: November 22, 2014

Residential Tenancy Branch

