



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 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 due to unpaid rent.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision without a participatory hearing. As a result, the landlord must follow and submit documentation **exactly** as the *Act* prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 29, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding by posting the documents to the tenant's door. Section 90 of the *Act* determines that a document is deemed to have been served on the third day after was posted; however, with regard to the landlord's application for a Monetary Order for unpaid rent; sections 88 and 89 of the *Act* determine the method of service for documents. The Landlords have applied for a Monetary Order which requires that the landlord serve the tenant as set out under Section 89(1). As the landlords posted the Notice of Direct Request Proceeding to the tenant's door, this method of service is not acceptable under section 89(1) of the *Act*. The Direct Request

application form provides this information to applicants and informs the landlords not to use this method of service if requesting a Monetary Order. Consequently, this section of the landlord's application is dismissed with leave to reapply. The proceeding continued regarding the landlord's application for an Order of Possession.

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

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by parties on June 21, 2014 for a tenancy beginning July 01, 2014 for the monthly rent of \$1,800.00 due on the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 23, 2014 with an effective vacancy date of November 02, 2014 due to \$3,130.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the months of September and October. The landlord has provided documentary evidence that indicates the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was served in person and signed for by the tenant on October 23, 2014.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenant on October 23, 2014 and the effective date of the Notice is November 02, 2014. I accept the evidence before me that the tenant has failed to pay all the rent owed for September and October, 2014 within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy will end on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*, effective **two days after service upon the tenant**. This Order must be served on the tenant and may be filed in the Supreme Court and enforced as an Order of that Court.

The landlord's claim for a Monetary Order to recover unpaid rent 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: November 05, 2014

Residential Tenancy Branch

