



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STERLING MANAGEMENT SERVICES LTD.
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 19, 2014 the Landlord served each Tenant with the Notice of Direct Request by registered mail, pursuant to Section 89(1) (c) of the Act.

The Landlord provided a copy of the Canada Post tracking receipts 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 Tenants were deemed served with the documents on November 24, 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 for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and the Tenants on November 18, 2011 for a tenancy commencing on the same day. The agreement establishes rent payable each month at the start of the tenancy in the amount of \$2, 200.00 on the first day of each month. The Landlord provided

documentation to show that the rent amount was then decreased to \$2,100.00 effective from February, 2012.

- A Notice of Rent Increase, dated January 22, 2013 showing the rent at the time was \$2,100.00 and was being increased by \$79.00 to \$2,179.00, payable by the Tenants starting on May 1, 2013;
- A Notice of Rent Increase, dated March 25, 2014 showing the rent at the time was \$2,179.00 and was being increased by \$47.00 to \$2,226.00, payable by the Tenants 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 November 4, 2014 with an vacancy date of November 14, 2014 due to \$2,226.00 in unpaid rent due on November 1, 2014;
- A copy of the Proof of Service of the Notice declaring the Landlord personally served the Notice to one of the Tenants on November 4, 2014 with a witness who signed the Proof of Service document verifying this method of service; and
- The Landlord's Application for Direct Request made on November 14, 2014 and the Monetary Order Worksheet claiming \$2,226.00 for unpaid rent for the month of November, 2014.

Analysis

I accept that the rent amount payable under the tenancy agreement changed during the course of the tenancy from \$2,200.00 to the amount currently payable of \$2,226.00 through a mutual agreement and between the parties and by two Notice of Rent Increases. I also accept that the rent amount payable by the Tenants at the time the Tenants were served with the Notice was \$2,226.00.

I have reviewed the written evidence and I accept that the Tenants were personally served with the Notice, which complied with the Act, on November 4, 2014 as verified by the witness statement.

I accept the evidence before me that the Tenants failed to dispute the Notice or pay the outstanding rent on the Notice within the five days provided under Section 46(4) of the Act. Therefore, I find that the Tenants are 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.

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 Tenants**. 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 **\$2,226.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenants 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: November 25, 2014

Residential Tenancy Branch

