



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FREDO HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 27, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. Based on the written submissions of the landlord, I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 46, 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 for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 3, 2014, indicating a monthly rent of \$820.00 due on the last day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 3, 2014, with a stated effective vacancy date of October 14, for \$4,245.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed for May of 2014 and \$85.00 was still owing, then the Tenant failed to pay the rent for

June, July, August and September, and then made a partial payment and \$600.00 was still due for October 2014. The Landlord claimed for \$3,965.00 in this Application, which is less than what was sought in the Notice to End Tenancy. The Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on October 3, 2014, which was witnessed on October 3. Section 90 of the Act deems the tenant was served on October 6, 2014; therefore, the effective end date of the tenancy was October 16, 2014.

The Notice states that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end 10 days from the service date. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenant has failed to pay the rent owed in full 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 ended on the effective date of the Notice. Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid rent.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$3,965.00** comprised of rent owed. This Order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 13, 2014

Residential Tenancy Branch

