



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST DECISION

Dispute Codes: OPR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

Preliminary Matter

The landlord names three different individuals in the style of cause as respondents. Evidence indicates the landlord was instructed that each party must be served pursuant to section 89 of the Act. In order to proceed with the Direct Request Proceeding a landlord must sign and submit a form provided in the package, titled, "Proof of Service of the Notice of Direct Request Proceeding", verifying service to each respondent.

I find that the landlord provided verification that only one of the respondents was served with the hearing package in person on November 2, 2014 at 6:50 p.m. in front of a witness. Sections 88 and 89 of the Act determine the method of service for documents. The Landlord has applied for a Monetary Order which requires that the landlord serve both of the tenants as set out under Section 89(1). In this case only the one individual had been personally served with the Notice of Direct Request Proceeding documents.

However as the landlord has not verified service of the Notice of Direct Request Proceeding documents upon the other people named, as required by Section 89(1) of the Act, this dispute proceeding will only proceed against the tenant properly served.

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession?

Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent and a "Proof of Service" form stating that the Notice was served to the tenant in person on October 5, 2014 in front of a witness.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the Act and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy and I find that the landlord has met this burden.

Analysis

Submitted into evidence was a copy of the tenancy agreement signed February 3, 2014 showing rent set at \$1,000.00 per month. In the "Details of Rent Owing" section of the application, the landlord indicates that the tenant paid all of the arrears that were owed on October 15, 2014. The payment was made more than 5 days after the landlord served the 10 Day Notice to End Tenancy for Unpaid Rent.

Based on the evidence submitted by the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant did not pay all of the outstanding rent within 5 days to cancel the Notice and did not apply to dispute the Notice. 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.

I hereby issue an Order of Possession in favour of the landlord 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 successful and is granted an order of possession based on the 10 Day Notice to End Tenancy for Unpaid Rent.

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 24, 2014

Residential Tenancy Branch

