



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMMEUBLES NATALIE INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

The landlords applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 17, 2014 the landlords sent the Notice of Direct Request Proceeding and supporting documents to the tenant by registered mail at the rental unit. The landlords provided a registered mail receipt, including tracking number, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing.

Based on the written submissions of the landlords, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession and monetary compensation for unpaid rent?

Background and Evidence

The landlords submitted copies of the following evidentiary material:

- A residential tenancy agreement which was signed by the tenant and former landlord on June 1, 2014, for a monthly rent of \$865.00 due on the 1st day of every month starting June 1, 2014 for a fixed term expiring November 30, 2014;
- A copy of a Certificate of Title indicating the landlord purchased the property in June 2014;
- A 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 2, 2014 with a stated effective vacancy date of November 12, 2014, for \$880.00 in unpaid rent, plus late fees, as of November 1, 2014;
- A Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on November 2, 2014 in the presence of a witness; and,

- A Monetary Order worksheet indicating rent of \$880.00 remains outstanding as of the date of filing.

The 10 Day 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 from the date of service.

Analysis

I have reviewed all documentary evidence and I find the tenant is deemed to have received the 10 Day Notice three days after it was posted on the door, pursuant to section 90 of the Act. As such, the effective date of the 10 Day Notice automatically changes to read November 15, 2014 under section 53 of the Act.

I accept the evidence before me that the tenant failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy would end on the effective date of the Notice. Therefore, I find that the tenancy ended November 15, 2014 and the landlords are entitled to an Order of Possession effective two (2) days after service upon the tenant.

I find the landlords are entitled to monetary compensation for unpaid rent in the amount of \$865.00 for the month of November 2014 pursuant to the amount of rent reflected in the tenancy agreement. The landlords are provided a Monetary Order in the amount of \$865.00 to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court.

Since section 55 of the Act limits monetary awards under the Direct Request procedure to unpaid rent only, claims for late fees and parking fees must be made by way of a separate Application for Dispute Resolution and a participatory hearing.

The security deposit remains in trust to be administered in accordance with the Act.

Conclusion

The tenancy has ended and the landlords are provided an Order of Possession effective two (2) days after service upon the tenant. The landlords are provided a Monetary Order for unpaid rent in the amount of \$865.00 to serve upon the tenant.

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 26, 2014

Residential Tenancy Branch

