



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 for each tenant to declare that on October 31, 2014 the landlords sent the Notice of Direct Request Proceeding and supporting documents to each tenant by registered mail sent to the rental unit. The landlords provided registered mail receipts, including tracking numbers, 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 tenants have 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 parties on November 8 and 14, 2012, indicating a monthly rent of \$1,800.00 due on the 1st day of every month starting November 15, 2012 for a fixed term expiring October 31, 2015;
- A 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 17, 2014 with a stated effective vacancy date of October 28, 2014, for \$3,600.00 in unpaid rent as of October 1, 2014;

- A Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenants' door on October 17, 2014 in the presence of a witness; and,
- A Monetary Order worksheet indicating the amount owed is comprised of unpaid rent for the months of September 2014 and October 2014 and that the entire amount of \$3,600.00 remains outstanding as of the date of filing.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants 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 tenants are deemed to have received the 10 Day Notice three days after it was posted on the door, pursuant to section 90 of the Act.

I accept the evidence before me that the tenants 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 tenants are 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 October 28, 2014 and the landlords are entitled to an Order of Possession effective two (2) days after service upon the tenants.

Based upon the evidence before me, I find the landlords are entitled to monetary compensation for unpaid rent in the amount of \$3,600.00 for the months of September 2014 and October 2014. The landlords are provided a Monetary Order for this amount to serve upon the tenants. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court. 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 tenants. The landlords are provided a Monetary Order in the amount of \$3,600.00 to serve upon the tenants.

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 13, 2014

Residential Tenancy Branch

