



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STS INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DIRECT REQUEST DECISION

Dispute Codes: OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 24, 2014 at 10:30 a.m., the landlord served each tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent.

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

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 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 and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 3, 2014 for \$2,200.00 in rental arrears. The notation at the top of the Notice indicates that the tenant owed \$2,000.00 from May to September 2014 and an additional \$200.00 for October 2014 rent.

- A monetary worksheet showing that the tenant owed \$1,620.00 accrued arrears in September 2014, \$200.00 for October 2014 and also failed to pay \$800.00 rent for November 2014 for total arrears of \$2,620.00.
- A copy of a residential tenancy agreement which was signed by the parties on November 1, 2012, confirming that the rent is \$800.00 per month, due on the first. The landlord is seeking compensation for \$2,620.00 and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Analysis

Based on the evidence before me, I find that the tenant was duly served with a Notice to End Tenancy for Unpaid Rent in person on October 3, 2014. The Notice states that the tenant has five days to pay the rent to cancel the Notice or to apply for Dispute Resolution to dispute the Notice. I find that the tenant did not apply to dispute the Notice to End Tenancy within five days and did not pay the arrears within five days.

I find that 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.

In regard to the landlord's claim for monetary compensation, I find that the amount indicated on the landlord's 10-Day Notice to End Tenancy for Unpaid Rent is \$2,000.00 calculated up to September 2014 and \$200.00 more for October 2014 for a total owed of \$2,200.00 by the end of October. However the landlord's monetary worksheet indicates that the tenant owed \$1,620.00 by September 2014, plus the \$200.00 for October 2014. The monetary worksheet did not show that any partial payments had been made by the tenant.

No explanation was given by the landlord for the discrepancy in the two different outstanding amounts documented as owed for September 2014. For this reason, I find that I am unable to determine the amount of arrears and must dismiss this portion of the landlord's application.

I do accept that the tenant was in arrears for some amount and therefore I hereby grant the landlord an Order of Possession 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.

The landlord's monetary claim is hereby dismissed without leave.

Conclusion

The landlord is partly successful in the application and is granted an Order of Possession. The monetary claim is dismissed as the amount owed is unclear.

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: December 01, 2014

Residential Tenancy Branch

