



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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 December 5, 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 received 5 days after service.

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

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on June 1 & 2, 2014, indicating that the tenant is obligated to pay \$975.00 in rent on the last day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlord served on the tenant on November 5, 2014 for \$975.00 in unpaid rent due in the month of November;
- A copy of the Proof of Service of the Notice showing that the landlord personally served the Notice on the tenant; and

- A statement by the landlord that on November 20, 2014, the tenant paid \$570.00 of the arrears owing, leaving a balance of \$405.00.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I find that the tenant received the Notice on November 5, 2014. I accept the landlord's undisputed evidence and I find that the tenant did not pay all of the rental arrears and did not apply to dispute the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the evidence before me that the tenant has failed to pay the full amount of her rent on the date that it was due in November. I find that the landlord is entitled to recover the rental arrears and I grant the landlord a monetary order for \$405.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

I note that on his monetary order worksheet, the landlord indicated that \$975.00 was outstanding for the month of December. In the Direct Request Process, the landlord may not claim monies for lost income after the effective date of the Notice. The landlord is free to pursue a claim for lost income for December through the regular Dispute Resolution Process.

Conclusion

I grant the landlord an order of possession and a monetary order for \$405.00.

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 18, 2014

Residential Tenancy Branch

