



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR & MNR

Introduction

This matter was conducted 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 due to unpaid rent.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision without a participatory hearing. As a result, the landlord must follow and submit documentation **exactly** as the *Act* prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 24, 2014 the landlord served the tenants with the Notice of Direct Request Proceeding by registered mail. Section 90 of 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 tenants have been served with the Dispute Resolution Direct Request Proceeding documents.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on April 20, 2014, with the second tenant being added to the agreement in August, 2014, for a tenancy beginning May 01, 2014 for the monthly rent of \$900.00 due on the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, December 05, 2014 with an effective vacancy date of December 15, 2014 due to \$825.00 in unpaid rent; the landlord has hand written on this Notice that \$25.00 has been added for NSF fees;

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of December and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenants' rental unit on December 05, 2014 and therefore is deemed served three days later.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with Notice to End Tenancy as declared by the landlord. The Notice is deemed to have been received by the tenants on December 08, 2014 and the effective date of the Notice is amended to December 18, 2014 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenants have failed to pay the rent owed of \$800.00 within the 5 days granted under section 46 (4) of the *Act*.

The landlord has claimed another \$25.00 for NSF fees as indicated on the 10 Day Notice. A landlord is not entitled to make a claim under the Direct Request process for anything other than unpaid rent. This section of the landlords claim is therefore dismissed with leave to reapply.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*, effective **two days after service on the tenants**. This Order must be served on the tenants and may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation, pursuant to section 67 of the *Act*, in the amount of **\$800.00** for rent owed. This Order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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: January 05, 2015

Residential Tenancy Branch

