



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership
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.

The Landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that on December 19, 2014, at 11:45 a.m., the Landlord's agent mailed the Notice of Direct Request Proceeding by registered mail to each of the Tenants at the rental unit. The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence.

Based on the Landlord's written submissions, I find that both of the Tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and 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 Proceeding for each of the Tenants;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;
- A copy of a residential tenancy agreement which was signed by the parties on June 13, 2014, indicating a monthly rent of \$780.81 and parking fees of \$45.00, due on the first day of the month;
- A Monetary Worksheet; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 3, 2014, with a stated effective vacancy date of December 13, 2014, for \$1,104.05 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the rent remains unpaid. The documentary evidence indicates that the Landlord's agent served the 10 Day Notice to End Tenancy for Unpaid Rent by attaching the document to the Tenants' door on December 3, 2014, at 2:35 p.m. The Proof of Service document is signed by a witness.

The Tenants 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 accept that Notice to End Tenancy was posted to the Tenants' door on December 3, 2014. Service in this manner is deemed to be effected 3 days after posting the document, in this case December 6, 2014.

Section 53 of the Act provides that an incorrect end-of-tenancy date on a notice to end tenancy is automatically corrected to the earliest date that complies with the Act. 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 December 16, 2014.

Therefore, I find that the Landlord is entitled to an Order of Possession.

The Direct Request Process is a limited expedited procedure of obtaining an Order of possession when the Tenant has not paid the rent or utilities. The Landlord may include a request for a Monetary Order limited to the amount of outstanding rent with justification and evidence to support the amount due. Parking fees are not considered rent. The Landlord's Monetary Worksheet indicates that "rent" for November, 2014, in the amount of \$278.24 is due, together with "rent" in the amount of \$825.81 for the month of December, 2014. Rent under the tenancy agreement is \$780.81. Therefore, the Landlord's application for unpaid rent in the total amount of \$1,104.05 is dismissed, with leave to reapply.

Conclusion

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord with an Order of Possession effective **two days after service** of the Order upon the Tenants. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

The Landlord's application for a Monetary Order for unpaid rent is dismissed **with leave to reapply**.

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 08, 2015

Residential Tenancy Branch

