



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted in response to a Landlords' Application for Direct Request for an Order of Possession and a Monetary Order for unpaid rent, 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 which declares that on July 27, 2015 the Landlords served each Tenant with the Notice of Direct Request by registered mail, pursuant to Section 89(1) (c) of the Act. The Landlords provided a copy of the Canada Post tracking receipts as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this reason alone as grounds for a review. As a result, I find that the Tenants were deemed served with these documents on August 1, 2015.

Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession for unpaid rent?
- Have the Landlords established a monetary claim for unpaid rent?

Background and Evidence

The Landlords submitted the following evidentiary material which I considered:

- A copy of a tenancy agreement signed by the Landlords and Tenants on July 18, 2014 for a tenancy commencing on August 1, 2014. The monthly rent is \$975.00 payable by the Tenants on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on July 7, 2015 with a vacancy date of July 18, 2015 for \$975.00 in unpaid rent due on July 1, 2015;

- A copy of the Proof of Service of the Notice which shows the Landlords served it to the Tenants on July 7, 2015 by registered mail. The Landlord provided the Canada Post tracking number as evidence for this method of service; and
- The Landlords' Application for Direct Request made on July 27, 2015 claiming \$975.00 in outstanding rent for July 2015.

Analysis

I have reviewed the documentary evidence and I accept that the Tenants were served by the Landlords with a Notice that complied with the Act, by registered mail on July 7, 2015; this is based on the Canada Post tracking number provided as evidence for this method of service. In accordance with Section 90(a) of the Act, I find that the Tenant is deemed to have received the Notice on July 12, 2015. Therefore, the effective date of vacancy on the Notice is automatically corrected to July 22, 2015 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenants failed to dispute the Notice or pay the rent owed on the Notice within five days after having deemed to have received the Notice, pursuant to Section 46(4) of the Act. Therefore, I find that the Tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the corrected date of the Notice. As a result, the Landlords are entitled to an Order of Possession and a Monetary Order for unpaid rent in the amount of \$975.00 claimed.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlords effective **2 days after service on the Tenants**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$975.00** in favor of the Landlords pursuant to Section 67 of the Act. This order must be served on the Tenants and may then 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: August 2, 2015

Residential Tenancy Branch

