



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR

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 landlords for an order of possession.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 7, 2015, the landlords served the tenant with the Notice of Direct Request Proceeding by posting the documents on the door of the rental unit.

Section 90 of the Act determines that a document served in this manner is deemed to have been received 3 days after service.

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

Issues to be Decided

Are the landlords entitled to an order of possession?

Background and Evidence

The landlords 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 October 29, 2014, indicating that the tenant is obligated to pay \$1,450.00 in rent in advance on the last day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") which the landlords served on the tenant on October 4 for \$1,450.00 in unpaid rent due on September 30;
- A copy of the Proof of Service of the Notice showing that the landlords personally served the Notice on the tenant; and

- Copies of confirmation of an email transfer of rent which took place on October 13, 2015 and an email sent by the landlords to the tenant confirming receipt of that rent but stating that the rent was accepted for use and occupancy only and that the tenancy would end on October 31, 2015.

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, nor did she pay the rental arrears within that timeframe.

Analysis

I find that the tenant was obligated to pay monthly rent in the amount of \$1,450.00. I accept the evidence before me that the tenant failed to pay \$1,450.00 in rent for the month of October on September 30, the date it was due under the terms of the tenancy agreement. I find that the tenant received the Notice on October 4, 2015. I accept the landlords' undisputed evidence and I find that the tenant did not pay the rental arrears until October 13 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 landlords 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.

Conclusion

I grant the landlords an order of possession.

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: November 09, 2015

Residential Tenancy Branch

