



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

The Landlords applied for Dispute Resolution by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), requesting an Order of Possession and a Monetary Order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 21, 2016, the landlord's agent served the tenants with the Notice of Direct Request Proceeding via registered mail.

Section 90 of the Act determines that documents served by mail are deemed to have been served on the fifth day after they are mailed, whether or not the tenants refuse or neglect to accept the documents.

I find that the tenants have been served in accordance with the Act.

Issue(s) to be Decided

The issues to be decided are whether or not the landlords are entitled to an Order of Possession for unpaid rent and to a Monetary Order for unpaid rent, pursuant to sections 46, 55 and 67 of the Act.

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a signed and dated Tenancy Agreement that bears the names of the landlords and tenants and indicates a monthly rent of \$950.00 due on the last day of each month beginning on May 31, 2014 and

- A copy of a 10 Day Notice to End Tenancy for unpaid rent which was issued on March 5, 2016, with a stated effective vacancy date of March 15, 2016.

The evidence filed by the landlords indicates that the tenants were served the 10 Day Notice to End Tenancy for unpaid rent on March 5, 2016, by hand delivering a copy to the tenant CNA. Section 89 of the Act states that a landlord can serve a tenant by leaving a copy with the person.

The Notice to End Tenancy states that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

The Landlord has provided a Direct Request Worksheet that states the tenants paid \$300.00 towards the rent on March 4, 2016, and that the balance of rent owed is \$650.00.

Section 46(5) of the Act states that if a tenant who receives a Notice does not pay the rent, or make an application for dispute resolution within five days of receiving the Notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

Analysis

I am satisfied that there is a Tenancy Agreement between the Landlords and Tenants pursuant to which the tenants are obligated to pay \$950.00 per month in rent in advance on the last day of each month and that the tenancy started on May 31, 2014.

After considering the evidence before me, I accept that the tenants received the Notice to End Tenancy on March 5, 2016 and the Direct Request Proceeding documents as declared by the landlords.

Records at this office indicate that the tenants did not apply to dispute the Notice to End Tenancy.

I find that the tenants have failed to pay all the rent owed in full within the five days granted under section 46 (4) of the *Act*.

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. Therefore, I find that the landlords are entitled to an Order of Possession and I grant them that order.

I further find that the landlords are entitled to recover the \$650.00 in rental arrears still owing for March 2016, and I grant the landlords a Monetary Order for \$650.00 in unpaid rent.

Conclusion

I grant the landlords an Order of Possession effective **two days after service** on the tenants. This Order may be filed in the Supreme Court and enforced as an Order of that Court.

I grant the landlords a monetary order pursuant to section 67 in the amount of **\$650.00** comprised of 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 final and binding on the parties, unless otherwise provided under the Act, and 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: March 30, 2016

Residential Tenancy Branch