



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPAEIT Limited Partnership
and [tenant name suppressed to protect privacy]

Dispute Codes

OPRM-DR & FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of 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 and recovery of the filing fee.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 5, 2018 the landlord served each tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy 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.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent and recovery of the filing fee, pursuant to sections 46, 55, 67, & 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following relevant evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for each tenant;

- a registered mail receipt for the service of the notice of direct request proceedings documents;
- A copy of a residential tenancy agreement, which was signed by the parties on March 23, 2017, for a tenancy beginning April 1, 2017, for the monthly rent of \$1835.00 due, on 1st of the month;
- a copy of the tenant's statement of account showing the rent outstanding; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 6, 2018, with an effective vacancy date of February 19, 2018, due to \$1835.00 in unpaid rent.

Documentary evidence filed by the landlord(s) indicates that the tenants had failed to pay the full rent owed for the month of February 2018 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 February 6, 2018 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.

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 February 9, 2018 and the effective date of the notice is February 19, 2018 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenants have failed to pay the rent owed within the 5 days granted under section 46 (4) of the *Act*. Further, the tenants did not apply to dispute the Notice to End Tenancy.

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. I therefore allow the landlord's request for an Order of Possession.

It is also my finding that the landlords have shown that there is a total of \$1835.00 in rent outstanding, to the end of February 2018. I therefore allow the landlord's request for an order for that outstanding rent and for recovery of the \$100.00 filing fee.

Conclusion

Pursuant to section 62 of the Residential Tenancy Act, it is my decision that the landlord is entitled to an Order of Possession, pursuant to section 55 of the Residential Tenancy Act, and I have issued an order that is 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.

It is also my decision that the landlord is entitled to monetary compensation pursuant sections 67 and 72 in the amount of \$1935.00, comprised of \$1835.00 in rent outstanding for February 2018, and the \$100.00 filing fee. 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: March 08, 2018

Residential Tenancy Branch