

## **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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 29, 2011, the landlord served each tenant with the Notice of Direct Request Proceeding via personal delivery at the rental unit at 11:58 a.m. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that 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?

Is the landlord entitled to monetary compensation 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 tenant;
- A copy of a residential tenancy agreement which was signed by the parties on August 5 and 6, 2010, indicating a monthly rent of \$775.00 due the first day of the month;
- A note to the tenants in relation to the number of occupants; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 13, 2011, with a stated effective vacancy date of January 23, 2011, for \$775.00 in unpaid January, 2011, rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery to the male tenant on January 13, 2011, at 12:46 p.m. The landlord supplied a copy of a proof of service document signed by the tenant, acknowledging receipt of the Notice. The Act deems the tenants were served on January 13, 2011.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant's 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 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 January 13, 2011.

I accept the evidence before me that the tenants have failed to pay the January, 2011, rent owed in full with in the 5 days granted under section 46 (4) of 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 the effective date of the Notice; January 23, 2011.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary Order for unpaid January, 2011, rent in the sum of \$775.00.

### Conclusion

I find, pursuant to section 55 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$775.00 January, 2011, rent owed and I grant an Order in that amount. 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: February 07, 2011.

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Residential Tenancy Branch