



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR and MNR

Introduction

This hearing was conducted as a 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 March 22, 2011, the landlord served the tenants with the Notice of Direct Request Proceeding sent by registered mail.

Based on the written submission of the landlord, I find that the tenants have been served with the 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 a Monetary Order for the unpaid rent.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notices of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on October 27, 2010 indicating a monthly rent of \$1,000 due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was served in person on March 7, 2011, and set an end of tenancy date of March 17, 2011.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay the rent due on March 1, 2011 in the amount of \$1,000.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days from the date of service.

The landlord has requested a monetary claim in this application for the sum of \$1,035, the rent for March 2011 plus late fees totaling \$35. However, section 55(4) of the *Act* which allows for Direct Request proceedings allows for monetary awards for unpaid rent only and the late fees cannot be claimed.

Analysis

I have reviewed all documentary evidence and accept that the tenants were served with Notice to End Tenancy as declared by the landlord.

I accept the evidence before me that the tenant failed to pay the rent owed in full within the five 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 which was March 17, 2011.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenants. 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 a Monetary Order pursuant to section 67 of the *Act* for \$1,000 in unpaid rent. 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.

The landlord remains at liberty to make application for any further losses as may be ascertained at the conclusion of the tenancy and the disposition of the security deposit remains to be dealt with in accordance with section 38 of the *Act*.

April 6, 2011.