Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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 February 23, 2012, the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit address. The landlord provided a Canada Post receipt and tracking number as evidence of service. Section 90 of the Act determines that a document is deemed to have been served on the 5th day after mailing.

Based on the written submissions of the landlord, I find that the tenant has 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 the tenant;

- A copy of a residential tenancy agreement which was signed by the parties on August 29, 2011, indicating a monthly rent of $650.00 due on or before the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 2, 2012, with a stated effective vacancy date of February 12, 2012, for $650.00 in unpaid rent due February 1, 2012.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on February 2, 2012, at 12 p.m. with a property manager

present as a witness. The Act deems the tenant was served on the 3rd day after
posting; February 5, 2012.

The Notice states that the tenant had five days to pay the rent or apply for Dispute
Resolution or the tenancy would end. The tenant 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 tenant has been served
with Notice to end tenancy as declared by the landlord.

The Notice is deemed to have been received by the tenant on February 5, 2012.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest
date upon which the Notice complies with the Act; therefore, I find that the Notice
effective date is changed to February 15, 2012.

I accept the evidence before me that the tenant has failed to pay the February, 2012,
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 tenant is conclusively presumed under section
46(5) of the Act to have accepted that the tenancy ended on the effective date of the
Notice; February 15, 2012.

Therefore, I find that the landlord is entitled to an Order of possession and a monetary
Order for unpaid February, 2012, rent in the sum of $650.00.

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 tenant 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 $650.00 February, 2012, rent owed and I grant an Order in that amount. This
Order must be served on the tenant 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 29, 2012.   _____

                                                   Residential Tenancy Branch