



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded 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 for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 27, 2012, the Landlord served each Tenant with the Notice of Direct Request Proceeding by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that each Tenant has been deemed sufficiently served with the Dispute Resolution Direct Request Proceeding documents in accordance with section 90 of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- 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 all parties for a fixed term beginning November 1, 2011 and ending October 31, 2012, for the monthly rent of \$1,800.00 due by the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, July 7, 2012, with an effective vacancy date listed as July 17, 2012, due to \$1,825.00 in unpaid rent that was due on July 2, 2012.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on July 7, 2012, at 7:30 p.m. when it was posted to the Tenants' door in the presence of a witness.

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 July 10, 2012, three days after it was posted to their door, and the effective date of the notice is July 20, 2012, pursuant to section 90 of the *Act*. I accept the evidence before me that the Tenants have failed to pay the rent owed in full within 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 and I hereby grant the Landlord an Order of Possession.

The 10 Day Notice indicates the Tenants have failed to pay **rent** of \$1,825.00 that was due July 2, 2012. The tenancy agreement indicates rent is due on or before the 1st of each month in the amount of \$1,800.00. There is no indication on the application of what the additional \$25.00 is for, and there was no tenant ledger provided to indicate why the outstanding balance of \$1,825.00 is comprised of.

Based on the foregoing contradictory information I find that I cannot determine the amount of outstanding **rent**, therefore the monetary claim does not meet the requirements of the direct request process and I dismiss it with leave to re-apply.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenants**. This Order is legally binding and must be served upon the Tenant.

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: August 01, 2012.

Residential Tenancy Branch