



Dispute Resolution Services

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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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding for each tenant to declare that on August 21, 2012 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided Canada Post receipts and tracking numbers as evidence of service. Section 90 of the Act determines that the documents are deemed to have been received five days later.

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 and 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 Request, including the registered mail receipts;
- A copy of a residential tenancy agreement which was signed by the parties on April 27, 2012, indicating a monthly rent of \$1,225.00 including parking that was due on the 1st day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on August 2, 2012 with a stated effective vacancy date of August 15, 2012, for \$1,850.00 in unpaid rent as of August 1, 2012; and,

- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenants' door on August 2, 2012 in the presence of a witness.
- A copy of a receipt indicating the tenants paid \$625.00 of the outstanding rent on August 10, 2012 and that the monies were accepted for use and occupancy only.

The 10 Day Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants not apply to dispute the Notice to End Tenancy within five days from the date of service.

In filing this application the landlord is seeking to recover \$1,225.00 from the tenants. In the details of dispute the landlord indicates that this amount is comprised of an outstanding amount from July 2012 in the amount of \$650.00 and the balance owed for August 2012 after deducting the partial payment made on August 10, 2012.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with a 10 Day Notice to End Tenancy as declared by the landlord. I accept the evidence before me that the tenants have failed to pay the rent owed in full or dispute the Notice within 5 days of receiving the Notice as permitted under section 46(4) of the *Act*. Accordingly, 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 August 15, 2012. I find the landlord is entitled to an Order of Possession effective two (2) days after service upon the tenants.

Based upon the evidence before me, I accept that the landlord is entitled to recover \$1,225.00 from the tenants for July and August 2012 and I provide the landlord with a Monetary Order for this amount. The security deposit remains in trust to be administered in accordance with the *Act*.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants. The landlord is provided a Monetary Order in the amount of \$1,225.00 to serve upon the tenants.

Dated: August 28, 2012.

Residential Tenancy Branch