



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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 6, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding by posting the proceeding package to the door of the rental unit. A proof of service documents for each tenant was supplied as evidence and indicated that posting occurred at 12:40 p.m. on November 6, 2013, to the tenant's rental unit door.

Section 90 of the Act determines that a document is deemed to have been served on the 3rd day after posting.

Based on the written submissions of the landlord, I find that each tenant has been served with the Direct Request Proceeding documents effective November 9, 2013.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

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 June 15, 2013, indicating a monthly rent of \$1,300.00 due on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 19, 2013 with a stated effective vacancy date of November 1, 2013, for \$1,300.00 in unpaid rent due on October 1, 2013.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay rent owed and were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the tenant's door on October 19, 2013 at 3:15 p.m. Both landlord's were

present and submitted a signed proof of service document as evidence of service. A photograph of the Notice, posted to the door beneath the unit number, was supplied as evidence of service.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end.

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 the 3rd day after posting; October 22, 2013.

I accept the landlord's submission that the tenants failed to pay October rent owed within 5 days of October 22, 2013. There was no evidence before me that the tenant's disputed the Notice within 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; November 1, 2013.

Therefore, 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; the Order may be filed in the Supreme Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession.

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: November 10, 2013

Residential Tenancy Branch

