



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This matter proceeded 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 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 February 25, 2014, the landlord served tenant “TD” with the notice of direct request proceeding personally at the rental unit at 6:55 p.m., and on February 26, 2014, the landlord served tenant “RD” by with the notice of direct request proceeding via registered mail.

Section 90 of the *Act* determines that a document served by registered mail is deemed to have been served five days later.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the direct request proceeding documents by using the latter of the two dates above, which would be five days after February 26, 2014 which is March 3, 2014.

Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent?
- Is the landlord entitled to a monetary order 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 tenants which included a copy of a registered mail receipt;

- A copy of a residential tenancy agreement which was signed by the parties on January 28, 2014, indicating a monthly rent of \$1,400.00 due on 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 16, 2014, with a stated effective vacancy date of February 26, 2014, for \$1,400.00 in unpaid rent due February 1, 2014.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay the rent owed and was served the 10 day notice to end tenancy for unpaid rent by personal service on tenant "TD" at 11:00 a.m. on February 16, 2014, which was witnessed by "NP", the spouse of the landlord.

The notice states that the tenants had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. The tenants 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 tenants have been served with 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 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, February 26, 2014. 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 (2) days after service** on the tenants and this 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 to section 67 in the amount of **\$1,400.00** comprised of rent owed.

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.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: March 6, 2014

Residential Tenancy Branch

