



Dispute Resolution Services

Page: 1

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). The landlord applied 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, which declares that on August 23, 2014, the landlord served the tenant with notice of the direct request proceeding by posting the notice on the rental unit door and also states “*Documents given to his other tenants (ROOMMATE) DN his bedroom bed*”. Section 90 states that a document is deemed to have been served three days after posting. Based on the landlord’s written submissions, I find that the tenant has been served with the Direct Request Proceeding documents on August 26, 2014.

An application for a monetary order may not be served by posting. I therefore dismiss the monetary portion of the landlord’s application with leave to reapply.

Issues to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent, pursuant to sections 46 and 55 of the *Act*.

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 February 15, 2014, indicating a monthly rent of \$1,325.00 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 August 14, 2014 with a stated effective vacancy date of August 24, 2014, for \$732.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent, in the presence of a witness on August 14, 2014 by leaving the notice with a person who apparently lives in the rental unit. Section 90 of the Act deems the tenant was served on August 14, 2014.

The Notice states that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end ten days from the service date. The tenant did not pay rent and 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. I accept the evidence before me that the tenant has 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 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. Therefore, I find that the landlord is entitled to an Order of possession.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and this Order may be filed in the Supreme Court 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: August 28, 2014

Residential Tenancy Branch

