



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL REALTY INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the “Act”) in response to a Landlord’s Application for Dispute Resolution (the “Application”) for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service declaring that the Notice of Direct Request Proceeding was personally served to the Tenant on September 19, 2014 in the presence of a witness who verified this method of service. Based on the written evidence of the Landlord, I find that the Tenant was served with Notice of Direct Request documents as required by Section 89(1) (a) of the Act.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Has the Landlord established a monetary claim for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the Landlord (not named on the Application) and the Tenant on May 2, 2004 for a tenancy commencing on June 1, 2004. Rent at the start of the tenancy was established in the amount of \$850.00 payable in advance on or before the first day of each month;
- Nine Notice of Rent Increase (“NRIs”) served to the Tenant throughout the tenancy showing that the rent payable on the tenancy agreement increased throughout the tenancy to \$1,080.00 which is the current amount payable for this

tenancy. The NRIs all indicate that they were served to the Tenant by the Landlord named on the Application;

- A copy of a 2 page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on September 9, 2014 with an effective vacancy date of September 19, 2014 due to \$2,160.00 in unpaid rent due on September 1, 2014. The Landlord's section on the Notice details the same name of the Landlord as appears on the Application;
- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenant on September 19, 2014 by attaching it to the Tenant's door with a witness who signed to verify this method of service; and
- The Application made on September 18, 2014 and the Monetary Order Worksheet claiming a total amount of unpaid rent for the months of August and September, 2014 in the amount of \$2,160.00

Analysis

The Landlord's name on the Application differs to the name on the tenancy agreement. While there was no specific documentation submitted to explain the change in Landlord during the tenancy, I find that based on the written evidence provided by the Landlord, including the NRIs and the Notice which document the same name of the Landlord appearing on the Application, I am satisfied that the Landlord named on the Application is the Landlord of the Tenant.

I also accept that the rent amount payable under the tenancy agreement changed throughout the tenancy as evidenced by the NRIs.

I have reviewed the documentary evidence and I accept that the Tenant was served with the Notice on September 9, 2014, which complied with the Act, by attaching it to the Tenant's door with a witness who verified this method of service.

The Act states that documents served this way are deemed to have been received three days after being attached to the door. Therefore, I find that the Tenant was deemed to be served the Notice on September 12, 2014 and the effective date of vacancy on the Notice is automatically corrected to September 22, 2014 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent for the months of August and September, 2014 within the five days provided under Section 46(4) of the Act.

Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the corrected vacancy date of the Notice. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$2,160.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) 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: September 23, 2014

Residential Tenancy Branch

