Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HUME INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

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 due to unpaid rent.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision without a participatory hearing. As a result, the landlord must follow and submit documentation **exactly** as the *Act* prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 11, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on April 05, 2013 for a tenancy beginning May 01, 2013 for the monthly rent of $695.00 due on the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, September 02, 2014 with an effective vacancy date of September 12, 2014 due to $715.00 in unpaid rent.
- Copy of a rent increase notice which indicates that the rent was increased by proper notice to $710.00 on May 01, 2014.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of September and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenant's rental unit on September 02, 2014 and therefore is deemed served three days.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

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. The Notice is deemed to have been received by the tenant on September 05, 2014 and the effective date of the Notice is amended to September 15, 2014 pursuant to section 53 of the *Act*. However, the landlord has applied for $715.00 and the rent increase notice indicates that the rent is

$710.00. I therefore accept the tenant owes rent of $710.00 for September and the tenant has failed to pay the rent owed within the 5 days granted under section 46 (4) of the *Act* and limit the landlords claim accordingly. 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.

Conclusion

I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act,* effective **two days after service on the tenant**. This Order must be served on the tenant and 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 of the *Act*, in the amount of **$710.00** for rent owed. 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 17, 2014

Residential Tenancy Branch