



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This matter was conducted in response to a Landlord's Application for Direct Request for an Order of Possession for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding documents which declares that on October 20, 2014 the Landlord attached the Notice of Direct Request Proceeding to the Tenant's door with a witness, pursuant to Section 89(2) (d) of the Act as well as serving a copy by registered mail.

In support of these methods of service, the Landlord provided a photograph which indicates the documents were attached to the Tenant's door and a copy of the Canada Post tracking number. I accept the Landlord's evidence and I find it is sufficient to show that the Tenants were served using the methods stipulated by the Act. I find that the Tenants were deemed served the documents three days later pursuant to Section 90(c) of the Act on October 23, 2014.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and the Tenant on March 2, 2014 for a tenancy that commenced on February 15, 2014. The tenancy agreement establishes rent payable in the amount of \$820.00 on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on October 13, 2014 with an effective vacancy date of October 23, 2014 due to \$820.00 in unpaid rent due on October 1, 2014;

- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to the Tenant on October 13, 2014 by attaching it to the Tenant's door with a witness who signed to verify this method of service, and by registered mail; the Landlord submits a photograph which indicates the Notice attached to the door and a copy of the Canada Post tracking number for the Notice.
- The Landlord's Application for Direct Request made on October 22, 2014 requesting an Order of Possession.

Analysis

I have reviewed the written evidence and I accept that the Tenant was served with the Notice, which complied with the Act, on October 13, 2014 by attaching it to the door with a witness and by registered mail. The Act provides that documents served this way are deemed to be received after a specified number of days. Therefore, I find that the Tenant is deemed to have received the Notice three days after it was attached to the Tenant's door (October 16, 2014) and the effective date of vacancy on the Notice is automatically corrected to October 26, 2014 pursuant to Section 53 of the Act.

I accept the evidence before me that the Tenant has failed to dispute the Notice or pay the outstanding rent on the Notice 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.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour 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.

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: October 26, 2014

Residential Tenancy Branch

