



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Interim Decision

Dispute Codes

OPR, MNR, and FF

Introduction

The landlord submitted an Application for Dispute Resolution, in which the landlord made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee for the cost of this Application for Dispute Resolution. The landlord made application to have a decision rendered without a hearing, pursuant to section 54(4) of the *Residential Tenancy Act (Act)*.

Section 55(4) of the *Act* authorizes me to grant an Order of Possession and an Order requiring the payment of unpaid rent without holding a hearing whenever a notice to end tenancy has been served by the landlord, the tenant has not disputed the notice by making an application for dispute resolution, and the time for making that application has expired.

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted a copy of a written tenancy agreement that establishes that this tenancy began on September 26, 2008, that the tenant was required to pay monthly rent of \$600.00, and that rent is due on the first day of each month.

The landlord submitted a copy of a Notice to End Tenancy, which had an effective date of February 03, 2009. The Notice to End Tenancy indicated that the tenant failed to pay rent, in the amount of \$800.00, that was due on January 01, 2009. The Notice indicated that the Landlord can apply for an Order of Possession through the direct request process unless the tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

In the Application for Dispute Resolution, the landlord indicated that the Notice to End Tenancy was personally served on the tenant on January 23, 2009. The Landlord submitted documentation that indicates the Notice to End Tenancy was received by a male who I will refer to as GW, who has not been identified as a tenant.

The landlord submitted a Proof of Service of the Notice of Direct Request Proceeding, which indicates that the Notice of Direct Request Proceeding was personally served on the tenant on January 30, 2009. The Landlord also submitted documentation that indicates the Notice of Direct Request Proceeding was received by GW.

Analysis

It is unclear from the evidence submitted, if the Notice to End Tenancy and the Notice of Direct Request Proceeding, were served on the Tenant or on the male identified as GW. As there is a question regarding service of these documents, I find that this matter can not be resolved without a hearing.

Conclusion

As I find that a hearing is necessary to resolve this matter, I hereby adjourn this matter to the time and date noted on the attached documents.

The landlord is required to serve one of the attached copies of the Notice of Hearing, a copy of this interim decision, a copy of the landlord's Application for Dispute Resolution, and copies of all evidence that the landlord intends to rely upon to support the application to the tenant within three days of receiving this decision.

Date of Decision: February 05, 2009
