

DECISION AND REASONS

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order and an order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 8, 2009 the personally served the tenant with the Notice of Direct Request Proceeding at the rental unit address. The landlord received the Direct Request Proceeding Package on May 7, 2009 and initiated service on the next day. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the day it is personally served.

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

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*. I have reviewed all documentary evidence submitted by the landlord.

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 August 15, 1990 indicating \$1,075.00 per month rent due by 2 pm on the last day of each month, a deposit of \$537.50 was paid on August 20, 1990
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 1, 2009 that does not include an effective vacancy date, for \$1,556.00 in unpaid rent due on April 30, 2009

Documentary evidence filed by the landlord indicates that the tenant was personally served a 10 Day Notice to End Tenancy for Unpaid Rent by the landlord at the rental unit on May 1, 2009. The landlord provided a Proof of Service document which is signed by the tenant, acknowledging receipt of the Notice to End Tenancy. 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.

The landlord has requested a monetary order for \$1,556.00 in unpaid rent due on April 30, 2009.

Analysis

I accept that the tenant has been served with notice to end tenancy effective on May 1, 2009. However, in the absence of an effective vacancy date the Notice to End Tenancy fails to contain all required information. Section 52(c) of the Act determines that a Notice is effective only if the vacancy date is indicated on the Notice. Failure of the landlord to include an effective vacancy date renders the Notice to End Tenancy issued on May 1, 2009 ineffective and of no force.

Conclusion

The Notice to End Tenancy issued on May 1, 2009 is of no force or effect. The landlord may proceed with issuing another Notice to End Tenancy which meets the required content.

This Application for Dispute Resolution is dismissed with leave to reapply based upon a new Notice to End Tenancy which is issued in the proper form and content.

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Dated May 13, 2009.

Dispute Resolution Officer