

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act).

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession; a Monetary Order for unpaid rent; and to recover the filing fee from the Tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 55, 67, and 72 of the Act. I have reviewed all documentary evidence submitted by the Landlord.

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the male Tenant and the Landlord's agent on June 30, 2008, indicating a monthly rent of \$750.00 due on the first of each month. The female Tenant is not listed as a tenant on the tenancy agreement and did not sign the agreement;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 7, 2009, with an effective vacancy date of August 17, 2009, for failure to pay rent in the amount of \$750.00 that was due on August 1, 2009 together with late fees in the amount of \$25.00;
- A copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities;

- A copy of the Landlord's Application for Dispute Resolution, filed August 20, 2009; and
- Copies of the Proofs of Service upon the Tenants of the Notice of Direct Proceeding.

The Landlord submitted a Proof of Service, signed by a witness, of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, which declares that the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, by posting it to the Tenants' door at the rental unit on August 7, 2009 at 2:00 p.m..

The Landlord submitted 2 signed Proofs of Service of the Notice of Direct Request Proceeding for each Tenant. Two Proofs of Service declare that on August 21, 2009, at 3:10 p.m. the Landlord's agent served the Tenants the Notice of Direct Request Proceeding, by leave a copy of the documents with the Tenants at the rental unit. The other Proofs of Service declare that on August 26, 2009, at 1:00 p.m. the Landlord's agent served the Tenants the Notice of Direct Request Proceeding, by leaving a copy of the documents with the Tenants at the rental unit.

Analysis

Based on the written submissions of the Landlord, I find that the Landlord did not provide proof that the female Tenant is a tenant under the tenancy agreement. I find that the Landlord has not proven service of the Dispute Resolution Direct Request Proceeding documents upon the Tenants. There is contradictory evidence as to when the Landlord provided the Tenants with copies of the Notice of Direct Request Proceeding.

Therefore, the Landlord's application is dismissed in its entirety.

Conclusion

The Landlord's application is dismissed with leave to reapply.

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: August 27, 2009.
