

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession, a Monetary Order, an Order to retain the security deposit in partial satisfaction of the claim, and to recover the cost of the filing fee from the Tenant for this application.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 3, 2009 the Landlord served the Notice of Direct Request Proceeding in person to someone at the rental unit. I note that the name listed on the Landlord's application for dispute resolution, on the proof of service document, and the 10 Day Notice to End Tenancy, are in a different order than the surname and given names of the Tenant listed on the application for rent subsidy and the residential tenancy agreement.

Analysis

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the Tenant, as named in the tenancy agreement, was served with the 10 day Notice to End Tenancy and the notice of Direct Request Proceeding.

In the presence of contradictory evidence relating to the issuance of the 10 Day Notice to End Tenancy I find that the Landlord has failed to establish service of the 10 Day Notice to End Tenancy was effected in accordance with the Act and I find that the 10 day Notice to End Tenancy due to Unpaid Rent dated November 4, 2009 is without force or effect.

Based on the above I find that this application does not meet the requirements for the Direct Request process and I hereby dismiss the Landlord's application without leave to reapply.

Conclusion

I HEREBY ORDER that the 10 Day Notice to End Tenancy issued for Unpaid Rent and dated November 4, 2009 is without force or effect.

I HEREBY DISMISS the Landlord's application, without 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*.

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Dated: December 17, 2009.

Dispute Resolution Officer