



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

INTERIM DECISION

Dispute Codes

OPR, FF

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 08, 2009 the Landlord posted the Notice of Direct Request Proceeding at the rental unit. The Landlord received the Direct Request Proceeding package on December 05, 2009 and initiated service that day. Section 90 of the Residential Tenancy Act determines that a document, when served by posting, is deemed to have been served on the third day after service.

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 and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55 and 72(1) of the *Act*.

Background and Evidence

I have reviewed the following evidence submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant
- A copy of a residential tenancy agreement that was signed by the Tenant, which indicates that the tenancy began on June 01, 2009 and that the rent of \$700.00 per month is due on the last day of the month
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by the Landlord on November 22, 2009 which declares that the Tenant must vacate the rental unit by December 02, 2009 unless the Tenant pays the rent within five

days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice declared that the Tenant owes rent, in the amount of \$700.00, that was due on October 31, 2009.

- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that a Ten Day Notice to End Tenancy for Unpaid Rent was posted on the door of the rental unit on November 22, 2009 at approximately 2000 hours, in the presence of the Landlord's spouse, who also signed the Proof of Service.

On the Application for Dispute Resolution, the Landlord declared that the Ten Day Notice to End Tenancy for Unpaid Rent was posted on the door of the rental unit on November 22, 2009.

On the Application for Dispute Resolution, the Landlord declared that the Tenant had not paid rent for November and December of 2009.

Analysis

I find that I am not able to determine that the Notice to End Tenancy that was served on October 31, 2009 was served after the rent for November was due, as I am not satisfied from the information that was provided when the Tenant is required to pay rent.

Conclusion

I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*, as I find that a conference call hearing is required in order to determine when the rent was due and if the Tenant failed to pay rent on the date that rent was due.

Notices of Reconvened Hearing are enclosed with this interim decision for the Landlord. A copy of the Notice of Reconvened Hearing, this interim decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenant, in accordance with section 88 of the *Act*, within **three (3) days** of receiving this decision.

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: December 18, 2009.

Dispute Resolution Officer