

DECISION

Dispute Codes OPR MNR 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 for unpaid rent, a Monetary Order for unpaid rent, 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 13, 2009 at 12:00 p.m. the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. The Tenant is deemed to have received the Notice of Direct Request on December 18, 2009, five days after it was mailed, in accordance with section 90 of the Act. Based on the written submissions of the Landlord, I find that the Tenant has been 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 cost of the filing fee, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

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 Tenant and the Landlord on October 18, 2008 for a month to month tenancy effective November 3, 2008, for the monthly rent of \$1,400.00 due on the 1st of the month. A deposit of \$700.00 was paid on or before November 1, 2008.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 25, 2009, with an effective vacancy date of December 7, 2009 due to \$15,000.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when the Landlord posted it to the Tenant's door on November 26, 2009 at 3:00 p.m. in the presence of a witness.

Analysis

The Landlord has filed through the Direct Request Proceeding and is claiming for more than ten months of unpaid rent for a total of \$15,000.00. I note that there is no evidence provided, such as a tenant ledger, to substantiate when or how the amount claimed was accumulated and for which months or partial months the Tenant has failed to pay the rent.

I find that the amount being claimed by the Landlord to be too excessive to consider in a non-participatory hearing and claiming 10.72 months of unpaid rent does not fit the criteria of a direct request proceeding. Based on the foregoing, I find that a conference call hearing is required in order to determine the merits of the Landlord's claim.

Conclusion

I find that a conference call hearing is required in order to determine the merits of this Application for Dispute Resolution. Notices of Reconvened Hearing are enclosed with this 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 23, 2009.

Dispute Resolution Officer