



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR, FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 19, 2009 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail. The landlord provided Canada Post receipts and tracking numbers as evidence of service. Section 90 of the Act determines that a document is deemed to have been served on the fifth day after mailing.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each tenant;
- A copy of a residential tenancy agreement which was signed on November 7, 2009 by one of three tenants named on the agreement, indicating a monthly rent

of \$1,350.00 due by the first day of the month and that a deposit of \$675.00 was paid on November 7, 2009;

- A receipt issued on November 2, 2009 in the sum of \$890.00 for rent and late fees, notating “order of possession still (illegible;)” and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 3, 2009 with a stated effective vacancy date of November 13, 2009, for \$1,450.00 in unpaid rent due on November 1, 2009.

The landlord’s evidence indicates that the tenants owed \$100.00 rent arrears from October 2009, plus unpaid November rent. The Application for Dispute Resolution indicates that on November 8, 2009 a payment in the sum of \$890.00 plus \$20.00 was made consisting of \$890.00 rent owed and a \$20.00 late fee. The Application indicates that the balance owed was \$580.00.

The landlord has issued a Notice to end tenancy on November 3, 2009 for unpaid rent in the sum of \$1,450.00.

Analysis

I have considered the residential tenancy agreement submitted as evidence and am unable to determine which of the three named tenants have signed the agreement. Only two of the three tenants have been named as respondents on the Application for dispute Resolution.

As I am unable to determine which tenant has signed the tenancy agreement, I find that this Application must be convened to a participatory hearing in order to establish the details of the tenancy.

I have also considered the monetary claim and find the evidence contradictory as the Application indicates that effective November 8, 2009 the tenants owed \$580.00 in rent arrears, while the receipt issued for payment of arrears, bringing the amount owed to \$580.00, was issued on November 2, 2009. The landlord then issued a Notice to end tenancy on November 3, 2009 which does not take into account the receipted payment made November 2, 2009.

Conclusion

Having found that the landlord has failed to provide evidence of the details of this tenancy and of payments made and rent owed, I order that the direct request proceeding be reconvened in accordance with section 74 of the Act. Based on the foregoing, I find that a conference call hearing is required in order to determine the

details of rent owed and the tenancy. Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve upon each tenant within **three (3) days** of receiving this decision in accordance with section 88 of the Act.

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 04, 2009.

Dispute Resolution Officer