



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR, MNSD, 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 January 12, 2010 the landlord served each tenant with the Notice of Direct Request Proceeding via personal delivery at the rental unit at 9 p.m. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

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 by only one of the named tenants, indicating a monthly rent of \$1,500.00 due on the 30th day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 1, 2010 with a stated effective vacancy date of January 10, 2010, for \$1,600.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants have failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting to the door on January 1, 2010 at 2:10 p.m. with a witness present. The Act deems the tenants were served on January 4, 2010.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant's did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and find that this Application must be reconvened to a participatory hearing. The landlord has indicated two tenant names on the Application for Dispute Resolution. The tenancy agreement submitted as evidence has been signed by only of the tenants and that tenant's name (C.G.) is spelled differently from the spelling used on the Application.

Conclusion

Having found that the tenancy agreement and Application for Dispute Resolution provide inconsistent information in relation to the number of tenants and the spelling of the tenant names, 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 service of the 10 Day Notice to End Tenancy. Notices of Reconvened Hearing are enclosed with this decision **for the applicant to serve upon the 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: January 21, 2010.

Dispute Resolution Officer