

INTERIM 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 31, 2009 at 3:00 p.m. the Landlord served the Tenant in person at the rental unit with the Notice of Direct Request Proceeding. 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 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 August 31, 2009 for a month to month tenancy beginning on September 1, 2009 for the monthly rent of \$700.00 due on the 1st of the month. A deposit of \$350.00 was paid on approximately August 31, 2009; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 15, 2009, with an effective vacancy date of December 29, 2009 due to \$700.00 in unpaid rent that was due on September 1, 2009.

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 the notice to the Tenant's door on December 15, 2009 at 2:00 p.m. in the presence of a witness.

Analysis

The Landlord has filed through the Direct Request Proceeding and is claiming for unpaid rent that was payable 2 ½ months prior to the issuance of the 10 Day Notice to End Tenancy. The Landlord did not provide a copy of a tenant ledger to prove whether payments for rent have been accepted after September 1, 2009 and on which dates these payments were made. I find that by waiting 2 1/2 months before issuing a notice to end tenancy with potential that the Landlord accepted rent for months after September 2009, leaves questions as to what transpired at the onset of this tenancy and does not meet 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 details of the Landlord's claim. Notices of Reconvened Hearing are enclosed with this decision for the Applicant Landlord and are required to be served to the Respondent Tenant by the Landlord.

Conclusion

I HEREBY 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: January 15, 2010.

Dispute Resolution Officer