

## **DECISION**

Dispute Codes      OPR MNR MNSD FF

### Introduction

The Landlord has applied for an Order of Possession, a Monetary Order for unpaid rent and to keep the security deposit, through the Direct Request Process. In support of their claim the Landlord has submitted a copy of a tenancy agreement that has not been signed by either Tenant.

The Landlord has submitted an application for dispute resolution and a copy of a 10 Day Notice to End Tenancy whereby the male Tenant's surname is spelled incorrectly.

### Analysis

A “**tenancy agreement**” means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit. I find that based on the above definition, oral terms contained in, or form part of, tenancy agreements and may still be recognized and enforced; however verbal tenancy agreements do not meet the requirements for a Direct Request Proceeding and that signed written tenancy agreements must be submitted as evidence that a tenancy agreement exists.

The Landlord has submitted proof of service documents in relation to their application for dispute resolution and the 10 Day Notice to End Tenancy which lists a different spelling on the male Tenant's surname than what is listed on the tenancy agreement.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlord is seeking to end the tenancy due to this breach; however, the Landlord has the burden of

proving that each Tenant was served with the 10 day Notice to End Tenancy and the application, in accordance with the Act.

In the presence of contradictory evidence relating to the application for dispute resolution and the 10 Day Notice to End Tenancy I find that the Landlord has failed to establish that the Tenant who is named in the tenancy agreement was served with the required documents. Based on the aforementioned, I find that the 10 day Notice to End Tenancy due to Unpaid Rent dated January 2, 2010 is without force or effect.

Based on the above I find that this application does not meet the requirements for the Direct Request process and I hereby dismiss the Landlord's application without leave to reapply.

#### Conclusion

The 10 Day Notice to End Tenancy dated January 2, 2010 is hereby cancelled and is of no force or effect.

I HEREBY DISMISS the Landlord's application, without leave to reapply.

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 20, 2010.

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Dispute Resolution Officer