



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 originally reviewed as a 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 and a monetary order due to unpaid rent.

The Dispute Resolution Officer who adjudicated the Direct Request Proceeding ordered the matter be held over to a participatory hearing as there was insufficient evidence to establish whether the tenant paid rent for December 2009.

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; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, 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 parties on November 1, 2008 for a month to month tenancy beginning on November 1, 2008 for the monthly rent of \$800.00 due on the 1st of the month and a security deposit of \$400.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 6, 2009 with an effective vacancy date of November 16, 2009 due to \$800.00 unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of November, 2009 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally on November 6, 2009 at 7:00 p.m. The landlord confirms in writing this service was witnessed by a third party.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days.

Conclusion

As the applicant landlord has not attend this hearing nor provided any additional evidence, I dismiss this application in its entirety.

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 22, 2010.

Dispute Resolution Officer