



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 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 landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 11, 2010 the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail. Section 90 of the Act states a document sent by mail is deemed served on the 5th day after it is mailed.

Based on the written submissions of the landlord, I find that the tenants have 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; 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 tenants;
- A copy of a residential tenancy agreement which was signed by the parties on May 18, 2008 for a month to month tenancy beginning on June 1, 2008 for the monthly rent of \$900.00 due on the last day of the month and a security deposit of \$460.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 3, 2010 with an effective vacancy date of February 12, 2010 due to \$6,225.00 unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months between August 2009 and January, 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally to the tenant on February 3, 2010 at 8:00 p.m. The landlord has provided written confirmation that this service was witnessed by a third party and receipt was acknowledged by the tenant.

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

Conclusion

Due to the amount of time and overdue rent, I find the circumstances regarding this tenancy and the non-payment of the rent to be too complicated to ascertain through the Direct Proceeding Process.

In accordance with section 74 of the Act, I hereby order that the direct request proceeding be reconvened as a teleconference hearing, on the date and time set out in the enclosed Notice of Reconvened Hearing.

The landlord must serve the tenant with a copy of the Notice of Reconvened Hearing 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: February 19, 2010.

Dispute Resolution Officer