

DECISION

Dispute Codes OPR OPB 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, an Order of Possession because the Tenant has breached an agreement with the Landlord, a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenant for this application.

The Landlord or Agent submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 2, 2010 at 12:45 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Canada Post receipts were submitted in the Landlord's evidence. The Tenant is deemed to have received the Notice of Direct Request on March 7, 2010, five days after it was mailed, in accordance with section 90 of the Act. 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

Is the Landlord entitled to an Order of Possession a) for unpaid rent, and b) because the Tenant has breached an agreement with the Landlord under sections 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order for unpaid rent under section 55 of the *Residential Tenancy 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 between a limited company and the Tenant which was signed by the Tenant and a party named in the application as the Landlord on September 3, 2007, for a month to month tenancy effective October 1, 2007, for the monthly rent of \$525.00 due on the 1st of the month. A deposit of \$262.50 was paid on September 3, 2007.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 1, 2010, with an effective vacancy date of February 28, 2010 due to \$3,600.00 in unpaid rent. I note that the 10 Day Notice does not list the Limited Company name for the Landlord however it does list a name that also appears as a name listed as a Landlord on the application for dispute resolution.

Documentary evidence filed by the Landlord indicates that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was sent to the Tenant via registered mail and signed for by the Tenant on February 23, 2010, as supported by a print out from the Canada Post website and submitted in the Landlord's evidence.

Analysis

The Landlords have filed through the Direct Request Proceeding and is claiming for more than six months of unpaid rent for a total of \$3,600.00. I note that there is no evidence provided, such as a tenant ledger, to substantiate when or how the amount claimed was accumulated and for which months or partial months the Tenant has failed to pay the rent.

I find that the amount being claimed by the Landlords to be too excessive to consider in a non-participatory hearing and claiming 6.857 months of unpaid rent does not fit 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 merits of the Landlords' claim.

Conclusion

I 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 Landlords. 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 Landlords 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: March 17, 2010.

Dispute Resolution Officer