

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 Landlords 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 Landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 25, 2010, 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 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlords 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 Landlords on September 17, 2009 for a month to month tenancy beginning on October 1, 2009 for the monthly rent of \$610.00 due on the 1st of the month.
- The tenancy agreement lists a security deposit of \$305.00 was to be paid on November 01, 2009, with "Deposit has not been paid" written on the tenancy agreement with two initials beside the notation; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 14, 2010, with an effective vacancy date of March 24, 2010 due to \$410.00 in unpaid rent that was due on March 01, 2010.

The proof of service form for the 10 Day Notice filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when the Landlord posted the notice to the Tenant's door on March 14, 2010, however the form also indicates the 10 Day Notice was served personally to the Tenant on March 14, 2010 at 5:50 p.m. in the presence of a witness. The Landlords' application for dispute

resolution states the 10 Day Notice was given to the Tenant on March 14, 2010, "by person".

Analysis

The Landlord has filed through the Direct Request Proceeding and has provided contradictory evidence as to how the 10 Day Notice to End Tenancy for Unpaid Rent was served. The Landlord has also provided information indicating the security deposit was not paid however there was no tenant ledger provided to substantiate the deposit remains unpaid. Based on the aforementioned this application 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 Landlords' claim. Notices of Reconvened Hearing are enclosed with this decision for the Applicant Landlords and are required to be served to the Respondent Tenant by the Landlords.

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 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: April 12, 2010.

Dispute Resolution Officer