

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 Landlord 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 Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 26, 2010 at 2:10 p.m. the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. Canada post receipt numbers were provided in the Landlord's evidence and the Tenant is deemed to have been served the Notice of Direct Request Proceeding on March 31, 2010, five days after they were 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

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 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 Tenant and the Landlord, however not dated, for a month to month tenancy beginning on November 1, 2009, for the monthly rent of \$825.00 due on the 1st of the month. A deposit of \$412.50 is listed on the tenancy agreement however there is no indication of when or if it was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 3, 2010, with an effective vacancy date of March 13, 2010 due to \$825.00 in unpaid rent that was due on March 1, 2010; and
- A copy of the Landlord's "Termination Notice Record" form which displays rental unit number, date served, "how served", and the first name printed of who served the notice.

The proof of service declaration is completed by the Landlord's manager listing the name of the person who conducted the service of the 10 Day Notice to End Tenancy for Unpaid Rent, and the form is signed by the Landlord's manager.

Analysis

The Landlord has filed through the Direct Request Proceeding providing a declaration of service which indicates service was conducted by someone other than the person who signed the declaration. A written declaration must be signed by the person who is making the declaration that they conducted service and cannot be signed "on behalf of".

Based on the aforementioned I find this application does not meet the criteria of a direct request proceeding and a conference call hearing is required in order to determine the details of the Landlord's claim. Notices of Reconvened Hearing are enclosed with this decision for the Applicant Landlord and are required to be served to the Respondent Tenant by the Landlord.

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 Landlord.

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 Landlord 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