

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 25, 2010 at 2:23 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 30, 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 two Tenants and the Landlord on January 25, 2007, and January 29, 2007, for a fixed term beginning February 1, 2007, and switching over to a month to month tenancy beginning after January 31, 2008, for the monthly rent of \$1,200.00 due on the 1st of the month. A security deposit of \$600.00 was paid on January 24, 2007, and a pet deposit of \$600.00 was paid on January 29, 2007; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 9, 2010, with an effective vacancy date of March 25, 2010 due to \$1,200.00 in unpaid rent that was due on March 1, 2010.

The proof of service declaration is completed by the Landlord stating the 10 Day Notice to End Tenancy for Unpaid Rent was served to the Tenant via registered mail on March 10, 2010. The registered mail tracking number was listed on the proof of service form.

A letter was received in response to the Landlord's application by a person alleging to be a co-Tenant and stating the Tenant who is named in this proceeding, is incarcerated out of Country and could not have been served with the hearing documents.

Analysis

The Landlord has filed through the Direct Request Proceeding providing a declaration of service which indicates service of the Direct Request Documents to the Tenant was conducted by registered mail to the address "where the Tenant resides"; however conflicting evidence was received indicating the Tenant is currently not residing at the rental unit, and the rental unit has since been vacated by the co-Tenant.

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