

## DECISION

Dispute Codes

OPR MNR

### 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 and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 28, 2010 at 1:30 p.m. the Landlord served the Tenant, via registered mail, with the Notice of Direct Request Proceeding. Canada Post receipts were submitted in the Landlord's evidence. The Tenant is deemed to have been served with the Notice of Direct Request Proceeding documents on May 3, 2010, the fifth day 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 and a Monetary Order for unpaid rent pursuant to section 55 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 on December 1, 2009 for a fixed term tenancy commencing on January 1, 2010 and switch to a month to month tenancy after June 30, 2010, for the monthly rent of \$800.00 due on the 1st of the month. A deposit of \$400.00 was paid on December 1, 2009; and
- A notation on the Landlord's application which states "we gave him a chance to make several payments until April 25<sup>th</sup> but he failed to do so."

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 5, 2010, with an effective vacancy date of April 25, 2010, due to \$1,700.00 in unpaid rent that was due on April 1, 2010.

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 served personally to the Tenant on April 5, 2010 at 10:00 a.m. The Tenant signed acknowledging receipt of the 10 Day Notice.

### Analysis

The Landlord has filed through the Direct Request Proceeding and is claiming for unpaid rent in the amount of \$900.00 stating the Tenant was allowed to make payments up to April 25, 2010, and that \$800.00 is unpaid for April 2010 and \$100.00 remains unpaid from March 2010. The 10 Day Notice was issued on April 5, 2010 listing \$1,700.00 as being unpaid rent which leads me to conclude that the Tenant made payments of rent to the Landlord, after the 10 Day Notice was issued, for a total amount of \$800.00.

The Landlord did not provide a copy of a tenant ledger or copies of receipts issued to the Tenant for rent received after the 10 Day Notice was issued. As the Landlord accepted rent after the 10 Day Notice the issue of whether the tenancy has been reinstated is raised therefore 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 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: May 05, 2010.

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Dispute Resolution Officer