

DECISION

Dispute Codes

OPR, MNR, FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a monetary order and filing fee costs.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 14, 2010, at 1:15 p.m. The landlord personally served the tenant with the Notice of Direct Request Proceeding at the rental unit address. The tenant signed a proof of service document acknowledging receipt of the documents. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

Is the landlord entitled to filing fee costs?

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 parties on February 24, 2010, indicating a monthly rent of \$560.00 due on or before the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on June 1, 2010, with a stated effective vacancy date of June 10, 2010, for \$560.00 in unpaid rent.

Analysis

Section 46(1) of the Act provides:

(1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

As the landlord has issued a Notice ending the tenancy on the date that rent was due, I find that the Notice is of no force or effect. A Notice ending tenancy for unpaid rent cannot be issued on the date that payment is due; as the tenant had the entire day in which to make the payment that was due on that date.

Therefore, I find that this Application is dismissed.

Conclusion

As the Notice was issued on the day payment was due, this Application is dismissed.

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: June 17, 2010.

Dispute Resolution Officer