



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes – OPR, MNR,

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. No participatory hearing was conducted

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 13, 2010 at 5:50 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding personally.

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 to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *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 parties on May 1, 2010 for a 6 month fixed term tenancy beginning on May 1, 2010 for the monthly rent of \$495.00 due on the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on August 2, 2010 with an effective vacancy date of August 12, 2010 due to \$495.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the month of August 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent. The 10 Day Notice indicates the rent that was unpaid was due on 01/00/2010. The Proof of Service document submitted by the landlord

states that 10 Day Notice to End Tenancy was left personally on August 2, 2010 at 8:00 p.m., but does not state who it was left personally with.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and find the landlord has failed to provide evidence that the tenant has been served with notice to end tenancy.

In addition, despite the landlord's notation on the Application for Dispute Resolution, the notice indicates the unpaid rent was due on a date that does not exist, therefore I find the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on August 2, 2010 to be ineffective.

Conclusion

As a result of the above findings, I dismiss the landlord's Application in its entirety without leave to reapply.

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: August 24, 2010.

Dispute Resolution Officer