

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 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 August 17, 2010, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail. The Tenant is deemed served on August 22, 2010, five days after it was mailed in accordance with Section 90 of the *Act*.

Based on the written submissions of the Landlord, I find the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession pursuant to section 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order pursuant to section 55 of the *Residential Tenancy 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 March 23, 2010 for a fixed term tenancy beginning April 1, 2010 and set to switch to a month to month tenancy after March 31, 2010. The monthly rent of \$1,150.00 is due on the 1st of the month and a security deposit of \$575.00 was paid on March 23, 2010; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 26, 2010 with an effective vacancy date of August 2010 due to \$2,300.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the Tenant failed to pay the full rent in the amount of \$2,300.00 which was due June 24, 2010 and that the Tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally to the Tenant in the presence of a witness. 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 note that the 10 Day Notice to End Tenancy states the tenant failed to pay rent in the amount of \$2,300.00 due on June 24, 2010. However, the tenancy agreement indicates rent is payable on the first of each month in the amount of \$1,150.00. Also, there is documentation which supports the Tenant's cheques for March, April, and June 2010 have been returned NSF which is three months of rent totaling \$3,450.00 and not \$2,300.00.

As per the aforementioned I find this application does not meet the requirements of the Direct Request process and I find it necessary to adjourn this proceeding to a participatory hearing.

Conclusion

I hereby order this proceeding be reconvened at a participatory teleconference hearing. Notices of Reconvened Hearing are enclosed with this decision for the Landlord.

A copy of the Notice of Reconvened Hearing, this 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 89 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: August 31, 2010.

Dispute Resolution Officer