

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 August 18, 2010, the Landlord served the Tenant with the Notice of Direct Request Proceeding, via registered mail. An “incomplete” Canada Post receipt was provided in the Landlord’s evidence.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession and a Monetary Order under section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- The Landlord’s application for dispute resolution; and
- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant; and
- A copy of the tenancy agreement which lists the Tenant’s surname as being spelled differently than what is listed on the Landlord’s application and the proof of service form. The tenancy agreement was effective May 1, 2010, for a fixed term tenancy which will switch to a month to month tenancy after October 31, 2010. Rent is payable in advance of the first day of each month in the amount of \$1,550.0. The Tenant paid \$775.00 on March 2, 2010 as a security deposit.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 11, 2010, with an effective vacancy date of August 11, 2010 due to \$1,550.00 in unpaid rent which was due on August 1, 2010. The Tenant’s surname on the 10 Day Notice is the same as what is listed on the tenancy agreement; and

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally to the Tenant on August 11, 2010, at 6:00 p.m. The Tenant signed the proof of service form acknowledging receipt of the Notice.

Analysis

The Landlord has filed an application against a Tenant who has a surname which is different than the Tenant listed on the tenancy agreement and the 10 Day Notice to End Tenancy.

The Proof of service form for the Direct Request Proceeding submitted by the Landlord is also issued in a different surname. The Canada Post receipt provided is incomplete as it does not provide the address to which the hearing documents were sent and therefore does not meet the requirements of service in accordance with section 89 of the Act.

The Landlord has the burden of proving that the Tenant was served with an application for dispute resolution that meets the form, content, and service under sections 52 and 89 of the *Residential Tenancy Act*. Therefore, I find that the Landlord's application for dispute resolution to be invalid. Based on the aforementioned, I hereby dismiss the Landlord's application.

Conclusion

I HEREBY DISMISS the Landlord's application, 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: September 01, 2010.

Dispute Resolution Officer