



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 Act, and dealt with an Application for Dispute Resolution by the landlords for an Order of Possession and a monetary order due to unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 24, 2010 the landlords served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act determines that a document is deemed to have been served on the fifth day after it was sent.

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

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on June 01, 2010 for a tenancy beginning June 01, 2010 for the monthly rent of \$1,450.00 due on the 1st of the month; and

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- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, September 06, 2010 with an effective vacancy date of September 17, 2010 due to \$3,625.00 in unpaid rent.

Documentary evidence filed by the landlord(s) indicates that the tenant has failed to pay the full rent owed up to the month of September, 2010 and that the tenants son was handed the 10 Day Notice to End Tenancy for Unpaid Rent on September 06, 2010. 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 not provided any evidence to show how old the tenants' son is. Section 88 (e) of the Act states:

How to give or serve documents generally

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

(e) by leaving a copy at the person's residence with an adult who apparently resides with the person;

Based on the foregoing, I find that the landlords have provided insufficient evidence to show that the 10 Day Notice was served on an adult residing at the premises



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Conclusion

Having found that the landlord has failed to prove service of the 10 day Notice to End Tenancy to an adult residing on the premises, I dismiss this application with 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: October 14, 2010.

Dispute Resolution Officer