



Dispute Resolution Services

Page: 1

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. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 5, 2010 at 7:35 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding in person.

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 tenants;
- A copy of a residential tenancy agreement which was signed by the parties on November 15, 2008 for a 12½ month fixed term tenancy beginning on November 15, 2008 that converted to a month to month tenancy on December 1, 2009 for the monthly rent of \$1,500.00 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 September 16, 2010 with an effective vacancy date of September 30, 2010 due to \$1,500.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed and due on September 15, 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent to an adult person that the landlord knows to reside in the rental unit on September 16, 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 accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 16, 2010 and the effective date of the notice is September 30, 2010.

However, the tenancy agreement stipulates that rental period starts on the first day of each month and that rent is due on that date. The landlord has provided no documentation or evidence if rent was paid on September 1, 2010 as would be required by the tenancy agreement. The landlord provided no documentation as to why any amount was expected on September 15, 2010.

Conclusion

Based on the above, I dismiss the landlord's application in its entirety.

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 19, 2010.

Dispute Resolution Officer