Dispute Resolution Services

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 18, 2010 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

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 *Residential Tenancy Act (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 January 23, 2007 for a month to month tenancy beginning on February 1, 2007 for the monthly rent of $1,000.00 due on the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 28, 2010 with an effective vacancy date of October 14, 2010 due to $5,924.00 in unpaid rent; and
- A copy of a memo stating the landlord and tenant have made a repayment agreement and that the tenant has given a one month notice to end the tenancy effective November 1, 2010.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of March, April, May, June, July, and August 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when via registered mail on September 29, 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

The Direct Request Process is intended to provide landlords with a method to obtain monetary orders and orders of possession where the tenant has failed to pay the rent and there are no other issues or extenuating circumstances that would require a participatory hearing.

As the landlord has indicated the parties have reached a payment agreement I find matter is not suitable to be adjudicated through the Direct Request Process.

Conclusion

For the reason noted above, I dismiss the landlord's application in its entirety, 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 21, 2010.

Dispute Resolution Officer