



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

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 filed 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 November 8, 2010, the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail to a street address which is not the rental unit and not where the Tenant currently resides. Canada Post Receipt numbers were submitted in the Landlord's documentary evidence.

Issue(s) to be Decided

Is the Landlord 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:

- 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 all parties on August 17, 2009, for a fixed term tenancy beginning September 1, 2009 and switching to a month to month tenancy after September 1, 2010, for the monthly rent of \$825.00 due on 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, October 28, 2010, with an effective vacancy date of November 7, 2010 due to \$1120.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served with the 10 Day Notice to End Tenancy for Unpaid Rent in person on October 28, 2010 and the Tenant refused to sign receipt and it was posted to the Tenant's door on October 28, 2010, at 5:50 p.m. in the presence of a witness.

Analysis

The Landlords provided evidence that the Tenant was served the hearing package on November 8, 2010 via registered mail which was addressed to a street name that is not the rental unit and there is no evidence to support that the Tenant resides at this street address.

I find that service of the Notices of Dispute Resolution were not effected in accordance with section 89(1)(c) of the *Residential Tenancy Act* (the Act) which stipulates that notices of dispute resolution if served via registered mail must be served to the address at which the person resides. Having found the service of documents not to have been effected in accordance with the Act, I dismiss the Landlords' claim, with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlords' claim, 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: November 12, 2010.

Dispute Resolution Officer