



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 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 each Tenant with the Notice of Direct Request Proceeding via registered mail. An “incomplete” copy of a Canada Post Receipt was submitted in the Landlord’s evidence, listing only the Tenant’s name, a city, province and postal code.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order for unpaid rent?

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 each Tenant;
- A copy of a residential tenancy agreement which was signed by the Landlord and only the male Tenant on April 22, 2010, for a month to month tenancy beginning

April 1, 2010. The monthly rent of \$750.00 is due on last day of the month and a deposit of \$375.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued to the male Tenant and a different named female tenant on, October 22, 2010 with an effective vacancy date of November 5, 2010 due to \$750.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid when it was posted to the Tenants' door on October 22, 2010 at 12:45 p.m. in the presence of a witness.

Analysis

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 8, 2009 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail however the Landlord has failed to fully complete the registered mail receipt to prove which address the registered mail package was sent to.

The Landlord is seeking to end the tenancy due to a breach; however, the Landlord has the burden of proving that the Tenant was served with notice of the Direct Request Proceeding, in accordance with section 89 of the Act which states that if served via registered mail it must be sent to the address where the tenant(s) reside.

In the presence of incomplete information pertaining to the service of the Direct Request Proceeding documents I cannot determine if service was effected in accordance with the Act.

Therefore based on the above, I have determined that this application does not meet the requirements of the Direct Request process, and I hereby dismiss it with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's 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: November 16, 2010.

Dispute Resolution Officer