



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, a Monetary Order, and to recover the cost of the filing fee from the Tenant for this application.

The Landlord's Agent submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 2, 2010 the Landlord's Agent served the 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.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a Monetary Order for unpaid rent; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (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 May 1, 2007 for a month to month tenancy beginning May 1, 2007 for the rental of a "Room". The monthly rent of \$250.00 is due on last day of the month and a deposit of \$125.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, July 1, 2010 with an effective vacancy date of July 11, 2010 due to \$1,004.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid when it was posted to the Tenant's door on October 21, 2010 at 10:00 p.m. in the presence of a witness.

Analysis

The Landlord's Agent submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 2, 2009 the Landlord served the Tenant with the Notice of Direct Request Proceeding via registered mail however the Landlord has failed to complete the registered mail receipt to prove which address the registered mail package was sent to.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlord is seeking to end the tenancy due to this breach; however, the Landlord has the burden of proving that the Tenant was served with notice of the Direct Request Proceeding, in accordance with the *Act*.

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*.

I also note that the Landlord's address is the same as the rental property where the Tenant rents "a room" which leads to further questions.

Therefore based on the above, I have determined that this application does not meet the requirements of the Direct Request process, and I find this application must be adjourned to a teleconference hearing.

Conclusion

I HEREBY FIND that a conference call participatory hearing is required in order to determine the merits of the Landlord's application. Notices of Reconvened Hearing are enclosed with this decision for the Landlord.

A copy of the Notice of Reconvened Hearing, this Decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenant, in accordance with section 89 of the *Act*, within **three (3) days** of receiving this decision.

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