



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 9, 2010 the Landlord 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, an abbreviation of the city initials, 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 the Tenant;
- A copy of a residential tenancy agreement which was signed by a different caretaker and a different Landlord than what is listed on the application for dispute, and only the Tenant on July 20, 2009, for a month to month tenancy

beginning July 20, 2009. The monthly rent of \$500.00 is due on the first day of the month and a deposit of \$250.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued to the male Tenant by someone named other than the Landlord or Caretaker, October 20, 2010 with an effective vacancy date of October 30, 2010 due to \$1,320.00 in unpaid rent.

Documentary evidence filed by the Applicant indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid when it was left with the Tenant's girlfriend, who resides at the rental unit, on October 20, 2010 at 6:00 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 9, 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 resides.

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

In support of their claim the Applicant has submitted a copy of the application, a copy of a 10 Day Notice to End Tenancy and a copy of a tenancy agreement. The tenancy

agreement was issued with different a Landlord and caretakers' names than that of the Applicant's name. There is no evidence to support that the Landlord has changed names or the Applicant has been assigned as a caretaker to the tenancy agreement from the previous Landlord or caretaker. Further, there is no evidence that the applicant named in this proceeding has any authorization to act as the agent to the legal landlords named in the tenancy agreement or that this authorization to act as the Landlord has been provided in writing to the Tenant.

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 17, 2010.

Dispute Resolution Officer