



Dispute Resolution Services

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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 November 24, 2010 at 7:15 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding personally.

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 *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 an undated residential tenancy agreement which was signed by the parties for a month to month tenancy. It is not clear when the tenancy began however the monthly rent is \$500.00 and no due date is provided in the tenancy agreement. A security deposit of \$250.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 3, 2010 with an effective vacancy date of November 13, 2010 due to \$1,000.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of October and November 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent personally on November 3,

2010 at 6:00 p.m. and that the tenant signed the notice itself confirming receipt and the landlord had the service witnessed by a third party.

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 conducted by way of a review of complete documentary evidence relating to the tenancy and a participatory hearing is not convened. The process can only be completed if there are no questions regarding the tenancy or the issuance of the 10 Day Notice.

As the tenancy agreement itself is incomplete, specifically there is no indication in the tenancy agreement as to when rent is due, I find I cannot determine if any rent was due to the landlord on October 31, 2010 as outlined in the 10 Day Notice.

Conclusion

As I cannot determine when rent is due, I 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: December 06, 2010.

Dispute Resolution Officer