



Dispute Resolution Services

Page: 1

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 December 2, 2010 at 6:45 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

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 a residential tenancy agreement which was signed by the parties on February 16, 2009 for a month to month tenancy beginning on March 1, 2009 for the monthly rent of \$600.00 due on the 1st of each month and a security deposit of \$300.00 was paid; and
- A copy of an unsigned 10 Day Notice to End Tenancy for Unpaid Rent that was issued on December 2, 2010 with an effective vacancy date of December 16, 2010 due to \$600.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the month of December 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was left with an adult who lives with the tenant on December 2, 2010 at 6:45 p.m. and that this service was 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

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. However, the copy of the 10 Day Notice to End Tenancy submitted into evidence was not signed by the landlord.

Section 46 of the Act allows a landlord to issue a notice to end a tenancy for unpaid rent but that notice must comply with Section 52. Section 52 stipulates the notice must, among other things, be signed and dated by the landlord. As the notice before me is not signed, I find the notice to be of no effect.

Conclusion

Based on the above, I dismiss the landlord's application in its entirety.

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 20, 2010.

Dispute Resolution Officer