



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

INTERIM DECISION

Dispute Codes

OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) 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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 23, 2010 the Landlord personally served the Tenant with the Notice of Direct Request Proceeding. Based on the written submissions of the Landlord, I find the Tenant has been duly 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 55 and 67 of the *Act*.

Background and Evidence

I have reviewed the following evidence 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 that appears to be signed by the Tenant, which indicates that the tenancy began on April 01, 2009 and that the rent of \$1,000.00 is due on the first day of the month. The tenancy agreement indicates that the service address for the Landlord is the same as the address of the rental unit.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was signed by the Landlord on December 15, 2010 which declares that the Tenant must vacate the rental unit by December 25, 2010 unless the Tenant pays the rent within five days of receiving the Notice or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice. The Notice indicates that the Tenant owes rent, in the amount of \$800.00, that was due on December 01, 2010. The Landlord's address on the Notice to End Tenancy is the same as the address of the rental unit.
- A copy of Proof of Service of the 10 Day Notice to End Tenancy, in which the Landlord declared that he personally served the Tenant with the Notice on December 15, 2010 at 9:00 p.m. The Proof of Service appears to be signed by the Tenant.

On the Application for Dispute Resolution, the Landlord indicates that the 10 Day Notice to End Tenancy for Unpaid Rent was personally served on December 15, 2010 and that the rent of \$800.00 is still due from December of 2010.

On the Application for Dispute Resolution the Landlord indicates that the Tenant resides in a suite at this residential address.

Analysis

I find that I have insufficient evidence to determine whether the Landlord and the Tenant live in separate suites in the same residential complex or whether they share accommodations in the same residential complex.

Although the Landlord declared in his Application for Dispute Resolution that the parties live in separate accommodations, this declaration is not corroborated by the tenancy agreement or the Notice to End Tenancy, neither of which indicates that the parties reside in separate accommodations.

Conclusion

Having found that the Landlord has failed to prove that the Landlord and the Tenant entered into a tenancy agreement for a rental unit in which the kitchen or bathroom facilities are not shared, I find that a conference call hearing is required. I find that a conference call hearing is necessary in order to determine whether the Tenant shares



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

bathroom and/or kitchen facilities with the owner of the residential complex, in which case the tenancy agreement would not fall under the jurisdiction of the *Act*.

Notices of Reconvened Hearing are enclosed with this decision for the Landlord. A copy of the Notice of Reconvened Hearing, this Interim 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 88 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: January 05, 2011.

Residential Tenancy Branch