



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

INTERIM DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession 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 April 13, 2011, the landlord served the male tenant or occupant with the Notice of Direct Request Proceeding via personal service.

Based on the written submissions of the landlord, I find that the male tenant or occupant has been duly served with the 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 and 67 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 male tenant or occupant;
- A copy of a residential tenancy agreement which was signed by the landlord and the female tenant or occupant, indicating a monthly rent of \$675.00, with ½ due on the first day of the month and ½ due on the 15th day of the month on a trial basis; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 2, 2011, with a stated effective vacancy date of April 12, 2011, for \$675.00 in unpaid rent and \$75.00 in late fees.

Documentary evidence filed by the landlord indicates that the male tenant or occupant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery on April 2, 2011.

The Notice states that the male tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end. The male tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

In her Application for Dispute Resolution, the landlord submitted that this tenancy was with a person, listed in this Interim Decision for identification purposes as the male tenant, only, and not with the person listed in this Interim Decision as the female tenant. However, the tenancy agreement submitted by the landlord was unsigned by the male tenant and was signed by the female tenant, but undated. Additionally the female tenant apparently added her name to the tenancy agreement, but her name was stricken, apparently by the landlord.

Analysis

I have reviewed all documentary evidence and find that the landlord has submitted insufficient evidence to determine the status of the male and female tenant for purposes of the Direct Request process.

In reaching this conclusion, I was influenced by the discrepancy between the tenancy agreement and the 10 Day Notice to End Tenancy and lack of proof as to the correct responsible party under this tenancy.

Conclusion

Having found that the landlord has failed to establish the correct responsible tenant or tenants under this tenancy for the purposes of the Direct Request procedure, I order that the Direct Request proceeding be reconvened in accordance with section 74 of the Residential Tenant Act. I find that a conference call hearing is required to identify, clarify and determine the responsible, correct party under for this tenancy.

Notices of the Reconvened Hearing are enclosed with this Interim Decision for the landlord. A copy of the Reconvened Hearing, this Interim Decision, the Application for Dispute Resolution and any evidence that will be introduced by the landlord must be

served on the male **and** the female 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: April 27, 2011.

Residential Tenancy Branch