



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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 March 29, 2011 the Landlord served each 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 Tenants' name, and on the male Tenant's receipt a postal code is listed. The Canada Post receipts are stamped with a date that appears to show 2011-03-11 or 2011-03-11

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 each Tenant;

- A copy of a residential tenancy agreement which was signed by the Landlord and both Tenants, for a month to month tenancy beginning February 1, 2011. The monthly rent of \$800.00 is due on first day of the month and a deposit of \$400.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 2, 2011 with an effective vacancy date of March 16, 2011 due to \$400.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid when it was posted to the Tenants' door. There was no signed proof of service document provided to support who conducted the service of the 10 day Notice.

Analysis

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 29, 2011, the Landlord served each 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. Also, the date stamp on the registered mail receipts indicate the receipts provided in evidence relate to registered mail sent on March 11th or March 17, 2011 and/or not March 29, 2011.

The Landlord is seeking to end the tenancy due to a breach; however, the Landlord has the burden of proving that each 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(s) reside.

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

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: April 05, 2011.

Residential Tenancy Branch