

DECISION

Dispute Codes OPR, MNR

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the Act). The landlord applied 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 March 28 the landlord personally served the male tenant with notice of the direct request proceeding, but the document does not indicate a year in which such service was effected, nor the year in which the document was prepared and signed by the landlord. The landlord also submitted a signed Proof of Service of the Notice of Direct Request Proceeding, which declares that on March 28 the landlord personally served the female tenant with notice of the direct request proceeding, but again, the document does not indicate a year in which such service was effected, nor the year in which the document was prepared and signed by the landlord.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on January 21, 2011, indicating a monthly rent of \$1,350.00 due on the first of each month. The tenant paid a security deposit of \$675.00 but no date for that payment is evident in the material before me.
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on March 8, 2011, with an effective vacancy date of March 18, 2011, for failure to pay rent in the amount of \$1,350.00 that was due on March 1, 2011;

- a copy of the Proof of Service of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the door of the rental unit on March 8, 2011; and
- a copy of the Landlord's Application for Dispute Resolution, filed March 25, 2011.

Analysis

I have reviewed all documentary evidence and I accept that the tenants have been served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on March 11, 2011.

The direct request procedure is a process whereby a landlord may apply for an Order of Possession and a monetary order for unpaid rent without an oral hearing. The process is extraordinary in that the tenants are not heard. In order to be successful, the onus is on the landlord to provide all evidence. In this case, I find that the landlord's evidence proving service of the notice of the direct request proceeding is incomplete as it relates to both tenants. Unless a full date can be established, the evidence is not proof that the tenants were served as required under the *Act*. The landlord is at liberty to re-apply.

Conclusion

For the reasons set out above, 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 11, 2011.

Residential Tenancy Branch