



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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* (the "Act"), and dealt with an Application for Dispute Resolution by the landlords for an Order of Possession and a Monetary Order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding to declare that on April 12, 2011 the landlords served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. Pursuant to section 90 of the Act, the documents are deemed to be received by the tenant five days later.

Based on the written submissions of the landlords, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession and monetary compensation for unpaid rent?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant, including the registered mail receipt;
- A copy of a residential tenancy agreement which was signed by the parties on February 21, 2011, indicating a monthly rent of \$800.00 due on the 22nd day of every month;
- 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 11, 2011, for \$925.00 in unpaid rent as of April 1, 2011; and,

- A copy of a Proof of Service of the 10 Day Notice indicating the landlord posted the 10 Day Notice on the tenant's door on April 2, 2011 in the presence of the other landlord.

In making this application, the landlords state that the tenant paid \$675.00 for February 2011 rent but did not pay the balance of \$125.00 and the tenant did not pay the \$800.00 due on March 22, 2011. The landlords waited until after April 1, 2011 to serve the 10 Day Notice at the request of the tenant.

On the 10 Day Notice, the landlords made the notation that \$925.00 included amounts owed for March 22 – April 1, 2011.

Analysis

I have reviewed all documentary evidence and I find that the details of dispute are not consistent with the notations made on the 10 Day Notice to End Tenancy provided as evidence. I deny the landlords' request for an Order of Possession and Monetary Order based upon the evidence before me.

The landlords are at liberty to issue another 10 Day Notice to ensure that it complies with the requirements of the Act.

The landlords' monetary claim is dismissed with leave.

Conclusion

The landlords' request for an Order of Possession is dismissed. The landlords' request for a Monetary Order is dismissed with leave.

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 26, 2011.

Residential Tenancy Branch