



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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 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 on each of the Tenants. The Proof of Service document declares that on March 28, 2011 at 10:15 a.m., the Landlord's agent served the Notice of Direct Request Proceeding on the Tenant TV by leaving the document with the Tenant at the rental unit. The Proof of Service document declares that on March 28, the Landlord's agent served the Notice of Direct Request Proceeding on the Tenant DV by registered mail to an address other than the rental unit. The Landlord provided a copy of the registered mail receipt and tracking number in evidence. Based on the written submissions of the Landlord, I find that the Tenants have been served with the Direct Request Proceeding documents.

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 the Proof of Service of the Notice of Direct Proceeding upon each of the Tenants;
- A copy of the Proof of Service of the Notice to End Tenancy upon the Tenant;
- A copy of a residential tenancy agreement which was signed by the Tenants and a different landlord on August 22, 2009, indicating a monthly rent of \$600.00 due on the first day of each month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on March 8, 2011, with an effective vacancy date of March 19, 2011, for \$682.00 in unpaid rent that was due on March 1, 2011.

The Landlord's Application for Dispute Resolution filed March 24, 2011, indicates that the Tenant owes rent in the amount of \$682.00.

The Landlord's documentary evidence indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document on the Tenants' door at 9:55 a.m. on March 10, 2011, at the rental unit. The Proof of Service Document is signed by a witness.

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

Analysis

I find that there are inconsistencies between the Application filed by the Landlord and the documentary evidence provided. In particular:

1. There is no explanation in the Landlord's documents as to why the Landlord served the Tenant DV by registered mail to an address other than the rental unit, or where the Landlord got that address from.
2. The tenancy agreement is between the Tenants and two landlords. Neither landlord noted on the tenancy agreement is the Landlord who filed the Application. There is not further documentary evidence indicating why the Landlord has filed as landlord under this tenancy.
3. The tenancy agreement indicates monthly rent of \$600.00. The Notice to End Tenancy indicates rent in the amount of \$682.00 is owed by the Tenants. There is no further documentary evidence indicating what the additional \$82.00 sought is for (i.e. unpaid rent from previous months, or a Notice of Rent Increase raising the rent to \$682.00).

Therefore, I find that this matter must be scheduled for a participatory Hearing in order to determine who the Landlord is; and how much rent is owed and for what months.

I Order that this Hearing be held by telephone conference call and it be scheduled for the date and time shown in the attached Notice of Hearing.

I order the Landlord to serve the Tenants with a copy of this Decision and the attached Notice of Hearing in accordance with the provisions of Section 88 of the Act within **three (3) days** of receiving this Decision.

Conclusion

I find that a conference call Hearing is required in order to determine the amount of rent owing and the name of the Landlord. Notices of Reconvened Hearing are enclosed with this decision for the Landlord to serve upon the Tenants, in a manner allowed by 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 11, 2011.
