



Dispute Resolution Services

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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 for unpaid rent.

In making this application the landlord named two co-tenants; however, the tenancy agreement was signed by the male respondent only. I have amended the application was amended to reflect the name of the signatory tenant only. Therefore, this decision and the Orders that accompany identify the male respondent as the only tenant.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 19, 2010 the landlord served the tenant with the Notice of Direct Request Proceeding via personal delivery at the rental unit.

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

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation 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 for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on April 19, 2011, indicating a monthly rent of \$1,375.00 due on the 1st day of every month;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 10, 2011 with a stated effective vacancy date of May 16, 2011, for \$375.00 in unpaid rent as of May 1, 2011; and,
- A copy of a Proof of Service of the 10 Day Notice indicating landlord personally served the 10 Day Notice upon the tenant at the rental unit on May 8, 2010 in the presence of a witness.

Analysis

Upon review of all of the documentary evidence before me, I find that I am not satisfied the tenant was served with the 10 Day Notice that was presented as evidence on May 8, 2011 as declared. The 10 Day Notice submitted as evidence is dated May 10, 2011 yet the landlord declared that it was served upon the tenant two days earlier on May 8, 2011.

The purpose of serving documents under the Act is to notify the person being served of their breach and the action being taken against them. As the Direct Request procedure is based upon written submission only, the submission must be complete and valid in order to succeed.

In light of the above, I deny the landlord's request for an Order of Possession and Monetary Order as I am not satisfied of service of the 10 Day Notice.

Conclusion

The landlord's application has been dismissed.

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: June 07, 2011.

Residential Tenancy Branch