

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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding on each of the Tenants. The Proof of Service documents declare that on May 17, 2011 at 3:30 p.m., the Landlord served the Notice of Direct Request Proceeding on each of the Tenants by registered mail. The Landlord provided copies of the registered mail receipts and tracking numbers. The receipts do not indicate where the documents were mailed, but the Proof of Service documents indicate that they were sent to the rental unit.

Based on the written submissions of the Landlord, I find that both of the Tenants have been served with the Direct Request Proceeding documents for the purposes of requesting an Order of Possession and a Monetary Order.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to an 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 Tenants;

- A copy of an “Application for Rent of House” including a page entitled “Conditions of a House”, which was signed “accepted by Tenant on” February 15, 2010. Only the Tenant RF signed as accepted;
- A document indicating rent arrears due from June 1, 2010; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 6, 2011, with an effective vacancy date of May 16, 2011, for \$2,690.00 in unpaid rent that was due on May 1, 2011.

The Landlord’s Application for Dispute Resolution filed May 17, 2011, indicates that the Tenants owed rent in the amount of \$2,690.00.

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 2:00 p.m. on May 6, 2011. The Proof of Service document was signed by a witness. Section 90 of the Act deems service in this manner to be effective 3 days after posting the document.

Analysis

The Direct Request process is a way in which a Landlord can obtain an Order of Possession for unpaid rent and a Monetary Order for that unpaid rent, without the requirement of a participatory Hearing. In order to be successful, the Landlord must provide sufficient documentation to support his application, including at least the following documents:

- Proof that the Tenants were served with the Notice of Direct Request Proceeding documents;
- Copy of the Tenancy Agreement signed by all parties;
- Copy of the Notice to End Tenancy; and
- Proof that the Tenants were served with the Notice to End Tenancy.

In this case, the Landlord has provided a copy of an “Application for Rent of House” which is not a Tenancy Agreement. While it may be proof that one of the Tenants applied to rent the rental unit, it is not proof that the Tenants signed a tenancy agreement with the Landlord.

For this reason, I dismiss the Landlord’s application **with leave to re-apply**.

Conclusion

The Landlord’s application is dismissed **with leave to re-apply**.

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: May 30, 2011.
