



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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding on the Tenant. The Proof of Service document declares that on May 12, 2011 at 1:00 p.m., the Landlord served the Notice of Direct Request Proceeding on the Tenant by registered mail sent to 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 am satisfied that the Tenant was served with the Direct Request Proceeding documents. Service of documents in this manner is deemed to be effected 5 days after mailing the 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 the Tenant;
- 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 parties on July 26, 2006, indicating a monthly rent of \$650.00 due in advance, on the last day of each month;
- A copy of a Notice of Rent Increase dated April 13, 2011, indicating an increase of rent from \$710.00 to \$720.00 per month effective August 1, 2011;

- A document entitled “outstandings” dated “Month of May, 2011” indicating a running balance of rent owed since September 1, 2010; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 3, 2011, with an effective vacancy date of February 16, 2011, for \$1,380.00 in unpaid rent that was due on February 1, 2011.

The Landlord’s Application for Dispute Resolution filed May 10, 2011, indicates that the Tenant owes rent in the amount of \$1,380.00.

The Landlord’s documentary evidence indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the document on the Tenant’s door at 3:15 p.m. on February 3, 2011. The Proof of Service document was signed by a witness.

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 proof of the amount of rent the Tenant owes the Landlord.

The Landlord issued the Notice to End Tenancy in February, 2011, and accepted some payments towards outstanding rent in March, April and May, 2011. It is not clear from the Landlord’s documentary evidence whether the Landlord accepted the payments as “rent” or for “use and occupancy only”. It is not clear from the documentary evidence provided whether any Notices of Rent Increase were provided to the Tenant prior to April 13, 2011, and if so, if they were in compliance with the provisions of the Act and regulations. Therefore, based on the documents provided, the Landlord has not substantiated that current rent is \$710.00 per month.

For these reasons, I find that it is necessary to adjourn this matter to a participatory Hearing.

Conclusion

I Order that this matter be adjourned to a participatory hearing by telephone conference call and it be scheduled for the date and time shown in the attached Notice of Hearing.

The Landlord must serve the Tenant with a copy of this Decision and the enclosed Notice of Hearing in accordance with the provisions of Section 89(1), 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: May 30, 2011.
