



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 31, 2011 the Landlord served one of the Tenants with the Notice of Direct Request Proceeding in person. Attached to the proof of service form was a letter written by the Landlord that indicates both proof of service forms were left on top of dog cages inside the rental unit.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for one of the two Tenants;
- A copy of a residential tenancy agreement which was signed by the parties for a fixed term tenancy that began on November 1, 2010 and is scheduled to switch to a month to month tenancy after November 1, 2011. The monthly rent of \$700.00 is due on last day of the month and a security deposit of \$350.00 and pet deposit of \$50.00 were paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 10, 2011 with no effective vacancy date listed due to \$1,400.00 in unpaid rent.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid when it was posted to the Tenants' door on May 12, 2011 in the presence of a witness.

Analysis

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 31, 2011, the Landlord served one of the two Tenants with the Notice of Direct Request Proceeding in person at the rental unit. However the Landlord attached a letter which states both Notice of Direct Request Proceeding packages were left inside the rental unit on top of two dog cages.

The Landlord is seeking to end the tenancy due to a breach; however, the Landlord has the burden of proving that each Tenant was served with notice of the Direct Request Proceeding, in accordance with section 89 of the Act. Leaving documents on top of dog cages does not meet the requirements of service under section 89 of the Act.

Therefore based on the above, I have determined that service of the hearing documents have not been effected in accordance with the Act, and I hereby dismiss this application with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, with leave to reapply.

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 20, 2011.

Residential Tenancy Branch