



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 (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 18, 2011 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of an Application for Rent of Suit signed by the tenant on October 22, 2010 for a month to month tenancy beginning on November 1, 2010 for the monthly rent of \$1,225.00 due on the 1st of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on August 5, 2011 with an effective vacancy date of August 18, 2011 due to \$1,250.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of August 2011 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on August 5, 2011 at 6:33 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

The Direct Request process is conducted by way of adjudicated written documentation submitted by the landlord on a date past the effective date of the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord. As a result, all required documentation must be submitted in order to adjudicate the landlord's Application.

While the landlord has submitted an "Application for Rent of Suit" document it does not contain the required terms of a tenancy agreement, including signatures of both parties and the landlord's service address. As such, I find the landlord has failed to submit a tenancy agreement and I cannot adjudicate the landlord's Application for Dispute Resolution through the Direct Request Process

Conclusion

For the reasons noted above, I 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: August 26, 2011.

Residential Tenancy Branch