



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes

OPR, MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to sections 55(4) and 74(2) 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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 12, 2011 an agent for the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail. The Landlord submitted a copy of a Canada Post Receipt, with a tracking number, which corroborates that the Landlord mailed a package to the rental unit.

Based on the written submissions of the Landlord, I find the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

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 55 and 67 of the *Act*.

Background and Evidence

I have reviewed the following evidence that was submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant.
- A copy of a residential tenancy agreement between the Landlord and the Tenant, which appears to be signed by the Tenant, that indicates that the tenancy began on January 01, 2011 and that the Tenant was required to pay rent of \$575.00 by the first day of each month.

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was signed by an agent for the Landlord and dated August 03, 2011, which declares that the Tenant must vacate the rental unit by August 16, 2011 as the Tenant has failed to pay rent in the amount of \$575.00 that was due on August 01, 2011. The Notice declares that the tenancy will end unless the Tenant pays the rent or submits an Application for Dispute Resolution seeking to set aside the Notice within five days of receiving the Notice.
- A copy of a signed Proof of Service of the 10 Day Notice to End Tenancy in which an agent for the Landlord declared that she posted the Notice on the Tenant's door on August 03, 2011, in the presence of another party, who also signed the Proof of Service.

In the Application for Dispute Resolution the Landlord declared that the 10 Day Notice to End Tenancy for Unpaid Rent was posted on August 03, 2011.

The Landlord is claiming compensation for unpaid rent. In the Application for Dispute Resolution the Landlord makes reference to damages to the rental unit. The Landlord does not specifically state it arrived at the claim for \$287.50.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement that required the Tenant to pay monthly rent of \$575.00 on the first day of each month, and that the Tenant did not pay the rent that was due by August 01, 2011.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that a 10 Day Notice to End Tenancy was posted at the rental unit on August 03, 2011.

I find that I have insufficient evidence to determine whether the Landlord's claim for \$287.50 relates to unpaid rent or to the damages referred to on the Application for Dispute Resolution. I therefore am not certain whether the Tenant has paid the rent for August of 2011.

Conclusion

I find that a conference call hearing is required to determine whether the Tenant paid rent for August within five days of receiving the Notice to End Tenancy; whether the Landlord is entitled to a monetary Order in the amount of \$287.50; and whether the Landlord is entitled to an Order of Possession. I therefore order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. Notices of

Reconvened Hearing are enclosed with this decision. A copy of the Notice of Reconvened Hearing, this Interim Decision, the Application for Dispute Resolution, and any evidence that will be introduced at the hearing by the Landlord must be served upon Tenant, in accordance with section 88 of the *Act*, 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: August 16, 2011.

Residential Tenancy Branch