



Dispute Resolution Services

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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 November 16, 2011, at 11:20 a.m. the Landlord served the Tenant with the Notice of Direct Request Proceeding, in person at the rental unit. Based on the written submission of the Landlord I find the Tenant was sufficiently served notice of this proceeding.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession and a Monetary Order under section 55 of the *Residential Tenancy Act*?

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 the Tenant; and
- The tenancy agreement which displays the parties names, for a month to month tenancy that began on April 1, 2007, for the monthly rent payable in advance on or before the first of each month in the amount of \$900.00; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, November 2, 2011, with an effective vacancy date of November 12, 2011, due to \$920.00 in unpaid rent which was due on November 1, 2011.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the Tenant's door on November 2, 2011, in the presence of a witness.

Analysis

The Landlord is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the tenant was served with a 10 day Notice to End Tenancy which meets the form, content, and service requirements that are set out under sections 52 and 89 of the *Residential Tenancy Act*.

The Landlord has provided a copy of the 10 Day Notice to End Tenancy which was issued on November 2, 2011, which lists in the section "you have failed to pay rent in the amount of **\$920.00** that was due on 01/11/2011 (Day Month Year)". The evidence supports that in accordance with the tenancy agreement rent is payable on or before the first of each month in the amount of \$900.00.

I note that the Landlord's application indicates they are claiming for \$900.00 in unpaid rent. There is no evidence provided to explain what the additional \$20.00 is that was included in the amount listed on the 10 Day Notice. Accordingly, I find there to be insufficient evidence to prove the 10 Day Notice to End Tenancy for unpaid rent issued November 2, 2011 meets the form and content requirements of section 52 of the Act; therefore I dismiss the Landlord's claim.

Conclusion

I HEREBY DISMISS the Landlord's application, without 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: November 22, 2011.

Residential Tenancy Branch