



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 which declares that on January 13, 2011, at 1 p.m. the landlord personally served each tenant with the Notice of Direct Request Proceeding, at the rental unit address. Section 90 of the Act determines that a document is deemed to have been served on the day of personal delivery.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to monetary compensation for unpaid rent?

Background and Evidence/Analysis

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of a residential tenancy agreement which was signed by the parties on January 18, 2011, indicating a monthly rent of \$600.00, with no due date indicated.

In the absence of evidence that includes a signed tenancy agreement which provides a due date for rent, I find that this application may not proceed via the Direct Request Proceeding process. I am unable to assume the date rent is due. Therefore, I find that the application is dismissed with leave to reapply. The landlord may wish to consider a participatory hearing.

Further, the application indicates that the male tenant has not paid his “share” of rent; this would indicate that perhaps the landlord has created 2 separate tenancies, vs. one tenancy with 2 parties. The tenancy agreement supplied as evidence is bereft of details and referenced house rules, which were not supplied as evidence.

Conclusion

The application is dismissed 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: January 23, 2012.

Residential Tenancy Branch