



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*, and dealt with an application made by the landlords for an Order of Possession and a monetary order for unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 15, 2012 the landlords served the tenant with the Notice of direct Request Proceeding by handing it to the tenant personally. Based on the written submissions of the landlords, I find that the tenant has been served with the Notice of Direct Request Proceeding requesting an Order of Possession and a monetary order.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to a monetary order for unpaid rent?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on September 23, 2010 for a tenancy beginning October 1, 2010, for the monthly rent of \$650.00 payable on the 1st day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on December 15, 2011 with an effective date of vacancy of December 29, 2011, due to \$650.00 in unpaid rent that was due on December 1, 2011. Only one page of the 2-page form has been provided;

- A copy of a Proof of Service for the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that states that the tenant was served with the notice on December 15, 2011 by personally handing it to the tenant;
- The Landlord's Application for Dispute Resolution dated January 6, 2012 which states that the tenant has not paid the full amount of rent for the month of December, 2011 and now owes \$1,300.00, which includes rent for January, 2012.
- An amended Landlord's Application for Dispute Resolution dated January 6, 2012 which states that the tenant has not paid the full amount of rent for the month of December, 2011 and now owes \$650.00, which includes rent for January, 2012.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with the notice to end tenancy as declared by the landlord.

The *Residential Tenancy Act* provides that once a tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant must pay the rent in full or apply for dispute resolution to dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. The *Act* further states that the notice given to the tenant must be in the approved form. In this case, the landlord has provided only 1 page of the 2-page approved form, and therefore, I cannot be satisfied that the tenant was served with both pages as required by the *Act*. Further, it is unclear in the evidence before me how much rent is outstanding. Both applications filed state that the landlords are claiming unpaid rent for December, 2011 and January, 2012, but the amounts are not the same. Presumably, the tenant paid rent for one month, but when that payment was received, or if it was in fact received, is not clear.

I find that a participatory hearing is required to provide evidence and testimony with respect to the relief sought by the landlords.

Conclusion

Enclosed with this Decision is a notice of hearing. I order the landlords to serve the tenant with a copy of the Application that the landlords intend to rely on and a copy of the notice of hearing within 3 days of receiving this Decision and the notice of hearing.

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 26, 2012.

Residential Tenancy Branch