



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 22, 2011, the landlord served the tenants with the Notices of Direct Request Proceeding via personal delivery.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the 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 46, 55 and 67 of the Act.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proofs of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on March 2, 2008, indicating a monthly rent of \$1,100.00 due on the 1st day of the month, beginning March 1, 2008; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 15, 2011, via personal delivery to one tenant only, with a stated effective vacancy date of December 26, 2011, alleging \$1,200.00 in unpaid rent and a late fee of \$50.00.

The Notice states that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end. I have no evidence before me that the tenants either paid the rent in full or applied to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

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

The landlord has provided a copy of the 10 Day Notice to End Tenancy which was issued on December 15, 2011 and states "you have failed to pay rent in the amount of \$1,200.00 and \$50.00 late charges that were due on December 1, 2011." In his Application, the landlord requested a monetary order of \$1,225.00.

Under the tenancy agreement, the monthly rent was \$1,100.00 and the landlord provided evidence that the rent had been increased to \$1,200.00 as of June 1, 2011, pursuant to a handwritten note, which did not contain the tenants' full names and the signature of one tenant only.

Under sections 42 and 43 of the Act, among other things, a landlord may increase the rent only up to the amount calculated in accordance with the regulations and be in the approved form. I therefore find that the rent increase by the landlord does not comply with the Residential Tenancy Act.

Based on the above I find that this application does not meet the requirements for the Direct Request process and I hereby dismiss the landlord's application without leave to reapply.

Conclusion

I HEREBY ORDER that the 10 Day Notice to End Tenancy issued for Unpaid Rent and dated December 15, 2011, is without force or effect.

I HEREBY DISMISS the landlord's application, without leave to reapply.

The landlord is at liberty to issue another 10 Day Notice to End Tenancy for Unpaid Rent to the tenants, with a request for a conference call hearing for the purpose of proving that the tenants were obligated to pay additional rent other than the amount listed in their evidence.

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 06, 2012.

Residential Tenancy Branch