



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 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 November 24, 2011 the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, 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

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on November 11, 2004 for a tenancy beginning on November 28, 2004, for the monthly rent of \$800.00 per month, plus \$2.00 per month for parking;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on November 5, 2011 with an effective date of vacancy of November 17, 2011, due to unpaid rent that was due on November 1, 2011 in the amount of \$982.00. Both pages of the 2-page form have 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 November 5, 2011 by posting it to the door of the rental unit;

- A document entitled Tenant Ledger which lists charges and payments for the tenant, including \$897.00 per month for rent from January 1, 2008 to December, 2008, \$930.00 per month from January 1, 2009 to December, 2009, \$955.00 from January 1, 2010 to November 1, 2011, and , \$2.00 per month for parking and late fees in the amount of \$20.00 or \$25.00 for several months.

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, which is deemed to have been received by the tenant on November 8, 2011, being 3 days after posting the notice to the door of the rental unit.

Further, I have no evidence before me that the rent is \$897.00 per month, or \$930.00 per month, or \$955.00 per month; the tenancy agreement specifies \$800.00 per month. I also note that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities states that the tenant has failed to pay rent in the amount of \$982.00 that was due on November 1, 2011, and I have no evidence before me to satisfy that amount. I cannot assume that the rent was raised to any particular amount, nor can I assume that the amount of rent due is \$982.00, or that that amount includes parking fees or late fees, which are not permitted on a Direct Request Proceeding.

Conclusion

Having found that the landlord has failed to prove the amount of rent owing, I find that a hearing is required. In accordance with section 74 of the *Act*, I hereby order that the direct request proceeding be reconvened as a teleconference hearing, on the date and time set out in the enclosed Notice of Reconvened Hearing. The landlord must serve the tenant with a copy of this Decision and the Notice of Reconvened Hearing 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: December 01, 2011.

Residential Tenancy Branch