



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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 14, 2012 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail sent to the rental unit. The landlord provided a Canada Post receipt and tracking number as evidence of service. Section 90 of the Act determines that the documents are deemed to have been received five days later.

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

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant, including the registered mail receipt;
- A copy of a residential tenancy agreement which was signed by the parties on August 23, 2010, indicating a monthly rent of \$1,000.00 due on the 1st day of every month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 3, 2012 with a stated effective vacancy date of February 13, 2012, for \$1,200.00 in unpaid rent as of February 1, 2012; and,

- A copy of a Proof of Service of the 10 Day Notice indicating landlord gave the 10 Day Notice to another individual on February 3, 2012 and that person signed to acknowledge receipt of the 10 Day Notice.

In the details of dispute the landlord states that the individual who accepted the 10 Day Notice is the boyfriend of the tenant. The landlord also states that the outstanding rent of \$1,200.00 is comprised of \$1,000.00 owed for February 2012 and \$200.00 owed for January 2012.

Analysis

The purpose of serving documents under the Act is to notify the person being served of their breach and the action being taken against them. A 10 Day Notice must be served upon a tenant in a manner that complies with section 88 of the Act.

Section 88 permits a landlord to serve a tenant in several ways, including:

- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;

As the Direct Request procedure is based upon written submission only, the submission must be sufficiently complete in order to succeed. I find there is insufficient information to determine whether the criteria of section 88(e) were met. For instance, I am unable to determine whether service occurred at the tenant's residence and the tenant's boyfriend apparently resides with the tenant. Therefore, I find I cannot proceed with this application under the Direct Request Procedure as I am unsatisfied by the documentary evidence that the 10 Day Notice was sufficiently served upon the tenant.

In light of the above, I dismiss this application with leave to reapply for a participatory hearing.

Conclusion

I was unable to determine the tenant was served with the 10 Day Notice in a manner that complies with the Act and I have dismissed the landlord's application with leave to reapply for a participatory 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: February 22, 2012.

Residential Tenancy Branch