



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 March 18, 2012, the landlord served the tenant with the notice of direct request proceeding via personal service.

Based on the written submissions of the landlord, I find that the tenant has 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 proof of service of the notice of direct proceeding for the tenant;
- A copy of a signed residential tenancy agreement;
- A copy of a ten day notice to end tenancy for unpaid rent which was issued on February 2, 2012, with a stated effective vacancy date of February 12, 2012, for \$2,592.50 in unpaid rent; and

Documentary evidence filed by the landlord for the notice issued on February 2, 2012, indicates that the tenant had failed to pay all rent owed, and the notice was acknowledge received by another party at the residence who is not on the tenancy agreement.

Analysis

I have reviewed all documentary evidence and I find I am unable to determine if the ten day notice was served in accordance with the Act. The ten day notice was not served on the tenant in the tenancy agreement; it was served on a third party. As a result, I am unable to determine if the person who acknowledged receipt of the notice is an adult who apparently resides with this person as required by the Act. There is no documentary evidence on this specific issue.

Based on the foregoing, I find that the landlord has not provided sufficient evidence to support the application for an order of possession, and monetary order through the direct request process. Therefore, the landlord's application is dismissed with leave to re-apply.

Conclusion

I find that the landlord has not provided sufficient evidence to support his application. Therefore, I dismiss the landlord's application with leave to re-apply.

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: March 21, 2012.

Residential Tenancy Branch