



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 17, 2012 at 2:40 p.m. the landlord served the tenant with the Notice of Direct Request Proceeding by posting it on the door of the rental unit. Section 90 of the *Act* states a document sent by mail is deemed served on the 3rd day after it is mailed.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent, pursuant to Sections 46 and 55 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the tenant and a different landlord on December 8, 2011 for a 1 year fixed term tenancy beginning on December 1, 2011 for the monthly rent of \$785.00 due on the 1st of each month and a security deposit of \$392.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 4, 2012 with an effective vacancy date of May 17, 2012 due to \$785.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of May 2012 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on May 4, 2012 at 11:45 a.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on May 7, 2012, 2011 and the effective date of the notice was May 17, 2012. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

However, as the tenancy agreement names a different landlord than the landlord who issued the 10 Day Notice to End Tenancy and the landlord who has applied for an order of possession; the landlord has provided no evidence that they are in a tenancy with the named tenant; and the Direct Request process does not allow an opportunity for either party to clarify this information, I find this Application is not suitable to be adjudicated through the direct request process.

Conclusion

For the reasons noted above, I dismiss the landlord's Application, with leave to reapply.

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: May 22, 2012.

Residential Tenancy Branch