



Dispute Resolution Services

Page: 1

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 Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 12, 2012 the landlord served the tenant named on the application with the Notice of Direct Request Proceeding by hand.

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

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding for the tenant named on the application;
- A copy of a residential tenancy agreement which was signed by the landlord and two tenants on March 07, 2012 for a tenancy beginning April 01, 2012 for the monthly rent of \$1,250.00 due on the 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which has no date of issue but has an effective vacancy date of July 13, 2012 due to \$1,250.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the full rent owed for the month of July and that the tenant named on the application was served a 10 Day Notice to End Tenancy for Unpaid Rent by hand on July 03, 2012.

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

Analysis

I have reviewed all documentary evidence and find that there are two tenants named on the tenancy agreement and both these tenants have signed the tenancy agreement. Only one of the tenants has been named on the 10 day notice and on this application for direct request proceedings.

In this matter I refer the parties to the Rules of Procedure s.13.6 which states:

A Dispute Resolution Officer may require that a tenant who is materially affected be given notice of an Application for Dispute Resolution. The Dispute Resolution Officer may determine, in accordance with the Act, that a tenant may be materially affected by the dispute resolution proceeding and will adjourn the dispute resolution proceeding to allow the materially affected tenant an opportunity to participate in the proceeding. The Dispute Resolution Officer will direct that the applicant and/or the respondent must serve the affected tenant with a copy of the Application for Dispute Resolution, a copy of the notice of the date and time scheduled for the continuation of the dispute resolution proceeding, and with copies of all relevant evidence.

It is my decision that the other tenant named on the tenancy agreement could be materially affected by these proceedings as the other tenant has not been served with either the 10 Day Notice, a copy of the landlords notice of direct request proceeding or the landlords evidence.

Consequently I adjourn the proceeding and reconvene it as a participatory hearing.

Conclusion

The applicant must serve the affected tenant with a copy of the Application for Dispute Resolution, a copy of the notice of the date and time scheduled for the continuation of the dispute resolution proceeding, and with copies of all relevant evidence. The applicant must also serve the tenant named on this application with Notice of the participatory hearing within three days of receiving the reconvened hearing letter.

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: July 24, 2012.

Residential Tenancy Branch