

## **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 August 14, 2012, the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail.

Section 90 of the Act determines that a document served in this manner is deemed to have been received five days after service.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order 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 Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on May 15, 2011 indicating that the tenant is obligated to pay \$550.00 in rent in advance on the 31<sup>st</sup> day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the landlord served on the tenant on August 2, 2012 for \$600.00 in unpaid rent due on August 1, 2012.
- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant by posting it on the rental unit door with a witness.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to

dispute the Notice to End Tenancy within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

### Analysis

I have reviewed all documentary evidence submitted by the landlord and am not satisfied that the application for an order of possession and a monetary order for unpaid rent of \$600.00 from this direct request and the 10 day notice to end tenancy for unpaid rent has been established. On the tenancy agreement it clearly shows that monthly rent due is \$550.00 on the 31<sup>st</sup>. day of each month. I cannot be certain to the \$50.00 difference being sought from the 10 day notice to end tenancy for unpaid rent as no evidence has been submitted to explain this discrepancy.

I find that the landlords have not met the onus placed on them of supplying documents that would prove the amount of rent owing (e.g., rent ledger, receipt book) in support of their application for a monetary award. I find that I am unable to consider their application for an order of possession or a monetary award against the tenants by way of a Direct Request proceeding.

Under these circumstances, with this discrepancy that require more information, I adjourn this application to be reconvened as a participatory hearing.

A Notice of Hearing Document is attached for each party. The Applicant is responsible for serving the Respondent with the Notice of Hearing and must provide to the Respondent copies of the relevant information and/or documents to which he/she may refer at the hearing.

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the dispute resolution officer and the testimony of the party in attendance at the hearing.

### Conclusion

I adjourn the landlords' direct request application for an Order of Possession and a monetary Order to be reconvened at 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: August 17, 2012.

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Residential Tenancy Branch