



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 (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. 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 August 14, 2012 at 1:49 p.m. the landlord served the tenants with the Notice of Direct Request Proceeding personally. Based on the written submissions of the landlord, I find that the tenants have 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 and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- 3 documents that may or may not be tenancy agreements:
 - One document is signed by the parties acknowledging a tenancy and that rent is due on 1st or 30th of each month but no other specific terms such as when the tenancy began or how much rent is; what term of the tenancy etc. This document is signed by both parties;
 - Another document is listed as an addendum to the tenancy agreement and includes two additional terms. This document is signed by both parties;
 - A Residential Tenancy Agreement that shows how much rent is and that the tenancy began on October 1, 2011 as a month to month tenancy but is unsigned by either party.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 16, 2012 with an effective vacancy date of July 27, 2012 due to \$1,000.00 and \$320.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of May 2012 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on July 16, 2012 at 3:00 p.m. and that this service was acknowledged by the tenant.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants 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 tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on July 16, 2012 and the effective date of the notice was July 27, 2012.

However, as the landlord seeks these orders against the tenants through the *ex parte* direct request process that is based solely on the provision of documentary evidence from the landlord it is essential that all of the documentary evidence must be complete and there should be no unanswered questions.

As the landlord as provided three documents that may or may not be part of a tenancy agreement the crucial document for this proceeding is the document that states how much rent is and that this document be signed by both parties.

As the document submitted by the landlord that contains the rent amount is not signed by either party, I find the landlord has provided no documentary evidence as to the amount of rent agreed upon in the tenancy agreement and as such, I find this application is more suitable for a participatory hearing.

Conclusion

For the reasons noted above, I dismiss the Application in its entirety 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: August 27, 2012.

Residential Tenancy Branch