



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 September 12, 2012 the landlord served the tenants with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

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:

- A copy of a residential tenancy agreement which was signed by the female tenant only and naming a third party (not the Applicant) for a 2 month fixed term tenancy beginning on May 1, 2011 for the monthly rent of \$550.00 due on the 1st of each month. The tenancy agreement states the tenant must vacate the rental unit unless an extension agreement has been signed. While there is some indication that two extensions may have been signed part of this section of the tenancy agreement is blackened out and unreadable, and it is not clear if an extension was granted. If one was granted it appears the extended fixed term may have terminated July 31, 2012; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 3, 2012 with an effective vacancy date of September 13, 2012 due to \$650.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of September 2012 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on September 3, 2012 at 9:15 a.m. and that this service was witnessed by a third party.

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

Upon review of the tenancy agreement, I note that the landlord named in the agreement is not that of the landlord named in either the 10 Day Notice to End Tenancy for Unpaid Rent or in the Application for Dispute Resolution. The applicant has not provided any documentation or confirmation that they have the authority to act on behalf of the landlord named in the tenancy agreement or that ownership of the property has transferred.

Further, I find it is unclear whether the tenancy agreement ended on June 30, 2011 or July 31, 2012 or if there was an extension and if there were an extension what the terms of that tenancy are or who the landlord is.

Because the tenancy agreement and other documentary evidence submitted by the landlord does not provide evidence of a current tenancy that could be confirmed through oral testimony, and because the Direct Request process does not allow an opportunity for any oral testimony to be heard, I find the Direct Request process is not a suitable forum for the adjudication of the landlord's Application.

Conclusion

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

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: September 18, 2012.

Residential Tenancy Branch