



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 *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 20, 2012 at 4:45 p.m. 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 tenants and another party not named on the Application for Dispute Resolution on April 1, 2009 for a 6 month fixed term tenancy beginning on April 1, 2009 and converting to a month to month tenancy on October 1, 2009 for the monthly rent of \$899.00 due on the 1st of each month and a security deposit of \$299.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on August 27, 2012 with an effective vacancy date of September 6, 2012 due to \$3,205.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of May, June, July, and August 2012 and that the tenants

were served the 10 Day Notice to End Tenancy for Unpaid Rent personally August 27, 2012 at 1:00 p.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

I have reviewed all the documentary evidence and I find the Applicant has not provided any documentation to determine why the landlord named in the tenancy agreement is different than that named on both the 10 Day Notice to End Tenancy and the Application for Dispute Resolution or how the landlord named in the 10 Day Notice and the Application have authority to act on behalf of the landlord named in the tenancy agreement.

As the direct request process does not allow for any questions to be answered as it is conducted by way of written documentation I find the direct request process not a suitable method for adjudication for this Application.

Conclusion

For the reasons noted above, I dismiss the landlord's Application with leave to reapply either for a participatory hearing or to reapply with complete documentation for adjudication through the Direct Request 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 25, 2012.

Residential Tenancy Branch