



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of an *ex parte* 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 landlords for an Order of Possession based on unpaid rent, unpaid utilities and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 12, 2012, the landlords handed the tenant the Notice of Direct Request Proceeding. Based on the written submissions of the landlords, I find that the tenant has been duly served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent and unpaid utilities pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent and utilities pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was signed by one of the landlords and the tenant, indicating a monthly rent of \$900.00 due on the 1st day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to the tenant by the landlords on October 2, 2012 with a stated effective vacancy date of October 12, 2012, for \$3,400.00 in unpaid rent and \$2,230.07 for unpaid utilities.

Witnessed documentary evidence filed by the landlords indicates that the tenant failed to pay all outstanding rent was served by handing the 10 Day Notice to the tenant on October 2, 2012. In accordance with section 89 of the *Act*, I accept that the tenant was served with this 10 Day Notice on October 2, 2012.

The Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlords.

In reviewing the landlords' application, I find that the landlords' failure to provide clear and adequate information renders it difficult for me to approve their application on the basis of the direct request process. The landlords have provided no rent ledger or receipts to demonstrate what rent has and has not been paid towards this tenancy. The landlords have not identified which months the monetary claim pertains to, nor have they provided any information whatsoever to support their claim for a monetary award for unpaid utilities. On this latter issue, I also note that the Residential Tenancy Branch is only considering applications for monetary awards for unpaid rent and, as such, the landlord's application for a monetary award of \$2,230.07 for recovery of unpaid utilities could not be considered without a participatory hearing.

I also note that the copy of the tenancy agreement provided by the landlords was dated March 1, 2011, for a six-month fixed term tenancy that commenced on December 1, 2010. Although one of the landlords and the tenant signed this agreement, they did not attach a date to their signatures.

Given the lack of information with respect to this application, I cannot consider by way of a direct request proceeding the landlords' application for a monetary award of \$5,630.07. Under these circumstances, I adjourn the landlords' application for a monetary award to be reconvened as a participatory hearing.

As I find that the landlord has not provided sufficient evidence to demonstrate that rent was owing and there is unclear information regarding the tenancy agreement, I am unable to consider in a Direct Request proceeding that the tenant has accepted that the tenancy ended on the effective date of the 10 Day Notice because of unpaid rent. For this reason, I also adjourn consideration of the landlords' application for an end to this tenancy and an Order of Possession to be reconvened as a participatory 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. I order that the direct request proceeding be reconvened in accordance with section 74 of the *Act*. I find that a participatory hearing is required in order to determine the details of the landlords' application. **Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve, with all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 88 of the *Act*.**

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: October 24, 2012

Residential Tenancy Branch