



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 26, 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 parties on April 30, 2012 for a fixed term tenancy for the monthly rent of \$1,600.00 due on the 1st of each month and a security deposit of \$800.00 and a pet damage deposit of \$400.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 6, 2012 with an effective vacancy date of September 16, 2012 due to \$1,625.00 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 plus an additional amount of \$25.00 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent

personally to the male tenant on September 6 at 6:10 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 documentary evidence and find that the landlord has issued a 10 Day Notice to End Tenancy for unpaid rent in the amount of \$1,625.00; that the tenancy agreement stipulates rent is \$1,600.00 and the landlord has provided no explanation as to why the amount of rent unpaid was \$25.00 more than the amount of rent that was due.

As the Direct Request process does not allow any opportunity to ask either of the parties any questions to clarify such matters, I find this matter is not suitable to be adjudicated through the Direct Request process.

Conclusion

For the reasons noted above, I dismiss this Application with leave to reapply either through a participatory hearing process or through the Direct Request process with all appropriate documentation to allow for adjudication.

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 01, 2012.

Residential Tenancy Branch