



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 October 17, 2012 the landlord served the tenant 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 tenant has 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 June 3, 2011 for a 1 year fixed term tenancy beginning on July 1, 2012 that states that the tenancy ends and the tenant must vacate the rental unit by June 30, 2012, for the monthly rent of \$950.00 due on the 1st of each month and a security deposit of \$475.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on October 7, 2012 with an effective vacancy date of October 17, 2012 due to \$950.00 in unpaid rent and \$612.45 in unpaid utilities following a written demand on August 15, 2012.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of October 2012 and that the tenant was served the 10 Day

Notice to End Tenancy for Unpaid Rent personally on October 7, 2012 at 1:00 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant 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 note the landlord has provided only a copy of a tenancy agreement that ended on June 30, 2012 and as the tenant was required to vacate the rental unit at that time, the landlord has provided no details as to the terms of any tenancy for the period beyond June 30, 2012.

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 either through a participatory hearing or by Direct Request if the landlord has a current tenancy agreement that outlines the terms of the current tenancy.

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 23, 2012.

Residential Tenancy Branch