



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* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 21, 2013 the landlord served the tenant with the Notice of Direct Request Proceeding by positing it in the door of the Tenant's rental unit. As this method of service is not recognized for an application for a monetary Order the Landlord's application for a monetary Order in the amount of \$500.00 is dismissed with leave to reapply. This information is on the Proof of Service of the Notice of Direct Request form that the Landlord completed. With Respect to the Landlord's application for an Order of Possession serving the documents on the door is an accepted service method. Section 90 of the Act determines that the document is deemed to have been served three days after a notice has been posted on the door or on February 24, 2013.

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents for an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the tenant;
- A copy of part of the residential tenancy agreement, indicating a monthly rent of \$1,000.00 due in advance of the 1st day of the month was provided. The landlord did not send in the full tenancy agreement with the application package. Pages of the tenancy agreement were missing and these pages included the signature page of the tenancy agreement. Therefore it was not possible to determine if the tenancy agreement was signed.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on February 5, 2013 with a stated effective vacancy date of February 15, 2013, for \$500.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant has failed to pay rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it on the door of the Tenant's rental unit. The Proof of Service of the 10 Day Notice to End Tenancy is supported by a witness signature. The Act deems the tenant was served on February 8, 2013, three days after posting the Notice on the Tenant's door.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

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

The notice is deemed to have been received by the tenant on February 8, 2013.

Based on the information submitted by the Landlord, I find that the Landlord has not submitted a complete tenancy agreement as the evidence provided does not include the signature page of the tenancy agreement. Consequently it is unclear if the tenancy agreement is signed, who signed it and if it is a binding contract; therefore I dismiss the Landlord's application with leave to reapply.

Conclusion

The Landlord's application for a monetary Order is dismissed with leave to reapply due to incorrect service of the Notice of Direct Request Application.

The Landlord's application for an Order of Possession is dismissed with leave to reapply due to the Landlord submitting only part of the tenancy agreement. The Landlord did not submit the signature page of the tenancy agreement therefore it is unclear if the agreement was signed, who signed it and if the contract is valid.

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: February 27, 2013

Residential Tenancy Branch

