



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership
and [tenant name suppressed to protect privacy]

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 April 17, 2013 the landlord served both 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 March 15, 2012 for a 1 year fixed term tenancy beginning on April 1, 2012 for the monthly rent of \$775.00 due on the 1st of each month and a security deposit of \$387.50 and a pet damage deposit of \$387.50 were paid. The tenancy agreement stipulates the tenancy will end on March 31, 2013 and the tenants must vacate the rental unit at that time; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 2, 2013 with an effective vacancy date of April 12, 2013 due to \$665.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of April 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on April 2, 2013 at 2:40 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 because the tenancy agreement submitted into evidence states that the tenancy ended on March 31, 2013 and that the tenants must vacate the property at that time, I find the landlord has failed to provide a copy of a current tenancy agreement.

Because the direct request process is an *ex parte* proceeding conducted without a participatory hearing where I might ask questions of either of the parties involved to determine what the terms of a current tenancy are or even if one exists as of April 1, 2013 I find the direct request process is not a suitable method for adjudication of this Application.

Conclusion

For the reasons noted above I dismiss the landlord's Application with leave to reapply either through the participatory hearing process or by the Direct Request process if they can provide a copy of a current tenancy agreement.

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: April 23, 2013

Residential Tenancy Branch