



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kekinow Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded 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 for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April of 2013, the landlord served the tenants with the Notice of Direct Request Proceeding via posting on the rental unit door.

Section 90 of the Act determines that a document served in this manner is deemed to have been received three days after service.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on August 7, 2011 indicating that the tenant is obligated to pay \$1,308.00 in economic rent in advance on the first day of the month;

- A copy of a subsidy agreement which was signed on August 7, 2011 indicating that the tenant's subsidy is \$923.00 resulting in a net rental amount payable by the tenant of \$385.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the landlord served on the tenant on April 5, 2013 for \$623.00 in unpaid rent due on April 1, 2013.
- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant by posting it on the rental unit door.

The Notice restates section 46(4) of the Act which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service and the landlord alleged that the tenant did not pay the rental arrears.

Analysis

I have reviewed all documentary evidence submitted by the landlord and am not satisfied that monetary claim for unpaid rent of \$178.00 from this direct request and the 10 day notice to end tenancy for unpaid rent. On the tenancy agreement it clearly shows that monthly rent due is \$1,308.00. The Landlord has failed to provide sufficient detail to satisfy me of what the current rental rate is based upon the \$923.00 subsidy from 2011 and the discrepancy of the \$623.00 on the 10 day notice and the \$178.00 being applied for. I also note that under the direct request process the Landlord served the notice of a direct request by posting it to the rental unit door which is not acceptable service for a monetary order request.

I find that the landlords have not met the onus placed on them of supplying documents that would prove the amount of rent owing (e.g., rent ledger, receipt book) in support of their application for a monetary award. I find that I am unable to consider their application for a monetary award or the request for an order of possession against the tenants by way of a Direct Request proceeding.

Under these circumstances, with this discrepancy that require more information, I adjourn this application to be reconvened as a participatory hearing.

A Notice of Hearing Document is attached for each party. **The Applicant is responsible for serving the Respondent with the Notice of Hearing and must provide to the Respondent copies of the relevant information and/or documents to which he/she may refer at the hearing.** The Applicant should be prepared to give evidence of service at the hearing.

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the dispute resolution officer and the testimony of the party in attendance at the 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.

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 26, 2013

Residential Tenancy Branch

