



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 deals 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 May 15, 2013, the Landlord served the Tenant with Notice of Direct Request Proceeding by registered mail. Based on the written submissions of the Landlord, I find that the Tenant has been duly served with the Direct Request Proceeding Documents.

Issue(s) 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 Proceeding;
- A copy of a residential tenancy agreement which was signed by the Parties on September 20, 2012, indicating a tenancy start date of April 1, 2012 and a rent of \$860.00 due on any day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on May 4, 2013 with a stated effective vacancy date of May 14, 2013, for \$860.00 in unpaid rent that was due on May 1, 2013; and

- A copy of the Proof of Service of the Notice to End Tenancy showing that the Landlord served the Notice to End tenancy to the Tenant on may 4, 2013 by posting the Notice on the Tenant's door.

The Notice states that the Tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end from the service date. 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 the Notice to End Tenancy as declared by the Landlord. However, given that the tenancy agreement does not indicate the date that rent is payable, I cannot find that the Notice, which indicates that the Tenant did not pay rent due on May 1, 2013 is valid. As a result, I dismiss the Landlord's claim for an Order of Possession. Accepting that rent for May 2013 may remain unpaid by June 1, 2013, I dismiss the Landlord's claim for unpaid rent with leave to reapply.

Conclusion

The Landlord's claim for an Order of Possession is dismissed.

The Landlord's claim for unpaid rent is dismissed with leave to reapply.

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: May 21, 2013

Residential Tenancy Branch