



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KANDOLA VENTURES INC.
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 May 15, 2013, the landlord served the tenants with the Notice of Direct Request Proceeding via personal service.

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

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 and 67 of the Act.

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 a residential tenancy agreement which was signed by the parties on December 31, 2011, indicating a monthly rent of \$1050.00 due on first day of the rental period which falls on the last day of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on **April 8, 2013** with a stated effective vacancy date of **April 18, 2013**, for \$1050.00 in unpaid rent due on **April 30, 2013**.

[Emphasis added]

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by personal delivery on May 8, 2013.

The landlord's write in their application that they seek to recover rent for May 2013.

Analysis and Conclusion

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

However, the Direct Request process is a mechanism that allows the landlord to apply for an expedited decision, with that the landlord must follow and submit documentation exactly as the *Act* prescribes; there can be no omissions or deficiencies with items being left open to interpretation or inference.

In this case, the landlord seeks to recover rent for May 2013; However, the 10 Day Notice to End Tenancy for Unpaid Rent was issued on **April 8, 2013**, for unpaid rent due on April 30, 2013, this would indicate the notice was issued prior to rent being due, which would make the notice invalid.

As a result, **I dismiss** the landlord's application **with leave to reapply**. The landlord should not apply for a direct request proceeding unless all documents are completed in full and clear. Therefore, the landlord may wish to submit a new application through the normal dispute resolution process which includes 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: May 21, 2013

Residential Tenancy Branch