



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 a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* in response to an application made 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 which declares that on June 12, 2013 the landlord served the tenant with the notice by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served 5 days after mailing. Based on the written submissions of the landlord, I find that the tenant has been served with the Notice of Direct Request proceeding requesting an Order of Possession and a monetary order.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent?
Has the landlord established a monetary claim against the tenant for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and tenant on November 8, 2011 for a tenancy commencing on December 1, 2011 for the monthly rent of \$795.00 payable in advance on or before the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on April 29, 2013 with an effective vacancy date of May 9, 2013 due to

\$795.00 in unpaid rent that was due on April 1, 2013 (both pages of the 2-page form have been provided);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which states that the tenant was served with the notice on April 29, 2013, by posting it to the door of the rental unit; and
- The Landlord's Application for Dispute Resolution which was made on June 12, 2013 claiming \$795.00 of outstanding rent. The application states that the date the notice to end tenancy was served is May 9, 2013 and the details portion of the application states that there is a total rent arrears of \$950.00 with a breakdown in the amount as follows: \$155.00 for April, \$795.00 for May and \$795.00 for June.

Analysis

The landlord has provided a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued to the tenant on April 29, 2013 for outstanding rent of \$795.00 relating to the month of April, 2013. However, in the details section of the Landlord's Application for Dispute Resolution, the landlord claims that there is only \$155.00 outstanding for April, 2013. The details section also states that there is unpaid rent for May and June of \$795.00 each. Therefore, I am unable to determine what month the \$795.00 unpaid rent the landlord is claiming relates to.

Furthermore, the landlord has indicated on the application that the notice to end tenancy was served to the tenant on **May 9, 2013**. However, the copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities shows that the tenant was served on **April 29, 2013**. Therefore, I am unable to determine the exact date the tenant was served the notice to end tenancy.

Based on these reasons, I am unable to issue the landlord with an Order of Possession and a monetary order for unpaid rent or utilities.

Conclusion

For the reasons set out above, the landlord's application is hereby 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: June 18, 2013

Residential Tenancy Branch