



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory, ex parte matter was conducted 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 for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 17, 2013, the landlord served the tenant with the Notice of Direct Request Proceeding, including the landlord's application, by leaving the documents with the tenant.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on January 15, 2013, indicating a monthly rent of \$900 due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was dated on June 4, 2013, with a stated effective move out date of June 14, 2013, listing \$325 in unpaid rent;

- Proof that the tenant was served the Notice by leaving it with the tenant on June 4, 2013; and
- A letter to the tenant dated January 10, 2013, indicating that the tenant was moving from the original rental unit in the same residential property to another rental unit, with an increased monthly rent of \$924.

Analysis and Conclusion

The direct request procedure is based upon written submissions only. Accordingly, written submissions must be sufficiently complete and clear in order to succeed. In reading the documents submitted, it is apparent that the original tenancy began between these two parties began on May 1, 2012, in a different rental unit on the same residential property of the landlord. In January 2013, it is further apparent that the parties signed a new tenancy agreement for another rental unit, the one in question here, on the same residential property, with the monthly rental obligation of \$900, as probably listed in the original tenancy agreement. It is not known as that tenancy agreement was not submitted by the landlord; however it is believed that the landlord attempted to transfer all terms and conditions of the original tenancy to the new tenancy.

In the letter of January 10, 2013, informing the tenant of permission to move into another rental unit, the landlord said the rent was being increased to \$934, yet signed a tenancy agreement on January 15, 2013, declaring that monthly rent was \$900.

I find that I am unable to grant the landlord's application. The signed tenancy agreement states that monthly rent was \$900, and the letter from the landlord states the monthly rent was \$934. I do not find that the landlord is able to increase the monthly rent under the Residential Tenancy Act by letter to the tenant or change any term under a tenancy agreement unilaterally.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision, which requires 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, which I find is the case here as explained here above.

Under these circumstances, I dismiss the landlord's application with leave to reapply.

The landlord should not apply for a direct request proceeding unless all documents are sufficiently clear and unambiguous. 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* and is being mailed to both the applicant and the respondent.

Dated: June 25, 2013

Residential Tenancy Branch

