



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Escort Investment Co. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a 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 due to unpaid rent and for a monetary order for unpaid rent.

Preliminary Issue, Analysis and Conclusion

In addition to other documentary evidence, the landlord submitted a signed Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”), indicating that the tenant was served the Notice by posting it on the tenant’s door on July 15, 2013.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Therefore the tenant was deemed to have received the Notice on July 18, 2013.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

As the tenant was deemed served the Notice on July 18, he had five days from that date, or July 23, 2013, to pay the rent listed on the Notice or file an application for dispute resolution in dispute of the Notice; yet the landlord made an application for this direct request proceeding on July 15.

I therefore find the landlord’s application for the direct request proceeding was premature as the tenant was still within the allowed time frame to pay the rent or file an

application for dispute resolution to dispute the Notice and I therefore I dismiss the landlord's application 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* and is being mailed to both the applicant and the respondent.

Dated: July 25, 2013

Residential Tenancy Branch