



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 22, 2013 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

Based on the written submissions of the landlord, I find that the tenants have been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

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, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on August 24, 2013 for an 8 month fixed term tenancy beginning on September 1, 2013 for the monthly rent of \$1,050.00 due on the 1st of each month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on October 10, 2013 with no effective vacancy date noted due to \$1,050.00 in unpaid rent plus an unpaid damage deposit of \$525.00.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of September 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally with the male tenant on October 10, 2013 at 11:00 a.m. and that this service was acknowledged by the tenant by signing the proof of service document.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

Section 52 of the *Act* stipulates that for a notice to end tenancy issued by the landlord to be effective the notice must be in writing; be signed and dated by the landlord; give the address of the rental unit; state the effective date of the notice; state the grounds for ending the tenancy and be in the approved form.

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, as the landlord has failed to identify the effective date in the Notice, I find the Notice issued does not comply with Section 52 and therefore the notice is invalid.

I accept the landlord's submission that the tenant has failed to pay rent for the month of September 2013. Having found that the landlord served the tenants with both the Notice to End Tenancy and his Application for Dispute Resolution and the tenants had not filed an Application to Dispute the Notice I also find the tenants have failed to pay rent for the month of September 2013.

Conclusion

For the reasons noted above, I dismiss the portion of the landlord's Application for Dispute Resolution seeking an order of possession.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,050.00** comprised of rent owed.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: October 28, 2013

Residential Tenancy Branch