



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Makola RNH Housing Society
and [tenant name suppressed to protect privacy]

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* (the "Act"), and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order.

Service Issues

The Landlord submitted two signed Proofs of Service of the Notice of Direct Request Proceeding which declare that:

1. On November 6, 2013, at 2:00 p.m., the Landlord's agent mailed the Notice of Direct Request Proceeding to the male Tenant by registered mail to the rental unit.
2. On November 6, 2013, at 2:00 p.m., the Landlord's agent mailed the Notice of Direct Request Proceeding to the female Tenant by registered mail to the rental unit.

The Landlord provided a copy of the registered mail receipts and tracking numbers in evidence. The registered mail receipt for the female Tenant is addressed to her. The Landlord also provided a printout of the female Tenant's signature on the delivery slip. **I am satisfied that the Landlord served the female Tenant with the Notice of Direct Request Proceeding.**

The Proof of Service document for the male Tenant attaches a registered mail receipt which is addressed to both Tenants. The Landlord did not provide a printout of the delivery slip for that registered document and therefore, **I am not satisfied that the Landlord served the male Tenant with the Notice of Direct Request Proceeding for the purposes of requesting a Monetary Order.**

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order for unpaid rent?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each of the Tenants;
- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent;
- A copy of a residential tenancy agreement, indicating a monthly market rent of \$1,200.00 due on the first day of the month and a subsidized rent payable by the Tenants of \$458.30; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 1, 2013, with a stated effective vacancy date of October 15, 2013, for \$1,038.00 in unpaid rent.

The Landlord's Application for Dispute Resolution filed November 6, 2013, indicates that subsidized rent is \$519.00 a month, and that the total owing for September, October and November, 2013 is \$1,557.00. On November 7, 2013, the Landlord amended its Application to reduce its monetary claim to \$519.00.

Analysis

The Direct Request procedure is an expedited procedure which is based on written documentation only. The Direct Request procedure is also a limited procedure which may only be used if the tenant has not paid rent or filed an application to cancel a Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Applications processed through the Direct Request procedure must be completed correctly and have all required supporting documentation attached. There is no ability for an arbitrator to ask questions of the parties.

In this case, I dismiss the Landlord's Application for Dispute Resolution for the following reasons:

1. The name and address for service of the Landlord on the tenancy agreement differs from the name and address for service of the Landlord on the Application

for Dispute Resolution and the Notice to End Tenancy. No supporting documents were provided to explain the differences.

2. The Landlord's evidence indicates that the female Tenant was served with the Notice of Direct Request Proceeding on November 6, 2013, by registered mail; however, the Landlord amended its Application for Dispute Resolution on November 7, 2013, and did not provide proof of service of the amended Application on either of the Tenants.
3. The tenancy agreement indicates that the Tenants' subsidized rent is \$458.30. The Application for Dispute Resolution indicates that the Tenants' subsidized rent is \$519.00. The Landlord did not provide any supporting documentation to explain the increase in subsidized rent.
4. The Notice to End Tenancy was issued on October 1, 2013, and served by registered mail on the same day. Rent is due on the first day of each month, which means it can be paid up to midnight on the first day of each month. At the time the Notice was served, October rent was not yet overdue.

Conclusion

I find that the Notice to End Tenancy is not a valid Notice as it was issued and served on the same day rent was due. The Landlord is at liberty to issue and serve another Notice to End Tenancy for Unpaid Rent. The Landlord's application for a Monetary Order for Unpaid Rent is **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: November 12, 2013

Residential Tenancy Branch

