



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR

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.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 14, 2013, at 3:12 p.m., the Landlord mailed the Notice of Direct Request Proceeding by registered mail to the Tenant at the rental unit. The Landlord provided a copy of the registered mail receipt and tracking numbers in evidence.

Based on the Landlord's written submissions, I find that the Tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenants;
- A copy of a residential tenancy agreement which was signed by the Tenant on April 4, 2013, indicating a monthly rent of \$650.00 due on the first day of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 25, 2013, with a stated effective vacancy date of November 15, 2013, for \$650.00 in unpaid rent.

The Tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and find that the Landlord's Application is incomplete. The Landlord did not provide sufficient evidence of the date that he served the Tenant with the Notice to End Tenancy, or the method of service. His Application for Dispute Resolution discloses that the Notice to End Tenancy was served by registered mail on October 25, 2013, but the Landlord did not provide a copy of the registered mail receipt or tracking information to confirm such service.

Proof of service of the Notice to End Tenancy is crucial in an application for an Order of Possession. A Direct Request Decision is based on written documentation only and therefore the Application for Dispute Resolution must be accompanied with a proof of service of the 10 Day Notice to End Tenancy as either a registered mail receipt or a written receipt signed by the Tenant or witnessed by a third party.

Therefore, the Landlord's Application is dismissed with leave to reapply.

Conclusion

The Landlord's Application 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 28, 2013

Residential Tenancy Branch

