



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MARINE VIEW MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR

Introduction

This matter proceeded 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 unpaid rent and a monetary order for unpaid rent.

In addition to other documentary evidence, the landlord submitted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated January 1, 2014 for rent due January 1, 2014, and with a proof of service document supporting that the 10 Day Notice was served on January 1, 2014 at 7:20 p.m.

Preliminary Issue

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision, with 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.

In this matter, the 10 Day Notice submitted in evidence was dated January 1, 2014 for rent due on January 1, 2014 and included a proof of service document supporting that the 10 Day Notice was served on January 1, 2014 at 7:20 p.m. As rent can be paid up to midnight on the day that rent is due, in this case, January 1, 2014, **I find** that the 10 Day Notice was served prematurely and therefore, is **invalid**. Given the above, **I cancel** the 10 Day Notice as it was served prematurely by the landlord. The earliest the landlord could have served a 10 Day Notice in this case, would have been January 2, 2014.

I dismiss the landlord’s application **with leave to reapply**. The landlord may wish to submit a new application; however will require **a new 10 Day Notice**.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: January 27, 2014

Residential Tenancy Branch

