



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REALTY EXECUTIVES ECO WORLD
and [tenant name suppressed to protect privacy]

DIRECT REQUEST DECISION

Dispute Codes: OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 17, 2014 at 4:20 p.m., the landlord served the tenant with the Notice of Direct Request Proceeding by registered mail. Section 90 of the Residential Tenancy Act, (*the Act*), determines that a document is deemed to have been served on the fifth day after it was sent.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord is entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent pursuant to sections 55 and 67of the Act?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding and Proof of Service of the Ten-Day Notice, verifying service to the tenant,
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on January 4, 2014 for \$2,200.00 in rental arrears, and
- A copy of a residential tenancy agreement for a tenancy starting on April 1, 2011 which was signed by one party on March 28, 2010 but was apparently subsequently signed by the tenant in July 2012. The landlord's signature is undated and the name of the party signing on behalf of the landlord is missing.

Documentary evidence was submitted by the landlord indicating that the tenant had failed to pay \$2,200.00 rent owed for the month of January 2014 and the landlord is seeking compensation in this amount and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent.

Analysis

Submitted into evidence was a copy of a tenancy agreement that was originally between the landlord and a party not named as respondent. However, this individual's name, signature and date of signature on the document were all crossed out and the name of the tenant shown as respondent in this application was written in.

The tenancy was shown as beginning on April 1, 2011 but the security deposit was paid in August 2010, by either this tenant or the one originally named on the agreement and it appears that the respondent tenant did not sign the agreement until August 2012, but the year shown is obscure.

In addition to the above, the landlord had signed the agreement, but the landlord's signature is not dated at all.

This is an application to proceed by way of Direct Request Proceeding, pursuant to section 74(2)(b) of the Act. The Fact Sheet containing directions and the requirements to qualify to apply for a resolution under this section indicates that the following mandatory documentation must accompany the Application:

- Copy of the 10 Day Notice to End Tenancy
- Copy of the Tenancy Agreement
- Proof of Service of the 10 Day Notice to End Tenancy

I find that, while this application did include a copy of a tenancy agreement, the agreement was not compliant with section 13 of the Act and had various inconsistencies that could affect its enforceability.

Section 13 sets out the mandatory terms that must be included within the tenancy agreement. The agreement must be signed and dated by both the landlord and the tenant.

Given the above, I find that this matter may not proceed by way of direct proceeding. It is therefore necessary to dismiss this application, and I do so granting the landlord leave to reapply.

The landlord is at liberty to make an application to pursue this matter through a regular teleconference hearing that would permit verbal testimony to be given regarding the specific terms of the tenancy agreement between the parties.

I hereby dismiss the landlord's application with leave to reapply for a participatory hearing in which testimony can be given with respect to the tenancy agreement.

Conclusion

The landlord is not successful in the Direct Request application, and it is dismissed with leave to reapply for a participatory hearing.

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: January 23, 2014

Residential Tenancy Branch

