



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 6, 2014, the landlord served the tenants with the Notice of Direct Request Proceeding via personal service.

Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

Issues to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to 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 Request Proceeding;
- A copy of a residential tenancy agreement which was signed by the parties on August 29, 2013, indicating that the tenants are obligated to pay \$775.00 in rent in advance on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) which the landlord served on the tenants on January 27, 2014. The Notice states that the tenants failed to pay \$1,000.00 in unpaid rent that was due on January 1, 2014.

- A copy of the landlord's Tenant Ledger which indicates that:
 1. The tenants made a partial rent payment of \$600.00 for December 2013 rent on December 30, 2013
 2. The tenants were charged a \$25.00 late fee on December 10, 2013
- A copy of the Proof of Service of the Notice showing that the landlord served the Notice on the tenants by personal service on January 27, 2014.

The Notice restates section 46(4) of the Act which provides that the tenants had five days to pay the rent in full or apply for Dispute Resolution. The tenants did not apply to dispute the Notice within five days from the date of service and the landlord alleges that the tenants did not pay the rental arrears.

Analysis

I find that the tenants received the Notice on January 27, 2014. However, I find that the Notice was not valid because it specified a larger amount of unpaid rent than was due on January 1, 2014.

According to the landlord's Tenant Ledger, the amount of rent that was due from the tenants on January 1, 2014 was \$175.00 that was due in the month of December 2013 and \$775.00 due in the month of January 2014 for a total of \$950.00. The Notice indicates that the tenants must pay a larger amount within five days in order to avoid eviction than the tenants were actually obligated to pay in order to avoid eviction.

For that reason, I dismiss the landlord's application for an order of possession and I dismiss the landlord's application for a monetary order with leave to reapply.

Conclusion

I dismiss the landlord's application for an order of possession. I dismiss the landlord's application for a monetary order, 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: February 07, 2014

Residential Tenancy Branch

