



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding URBAN HEIGHTS DEVELOPMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a Direct Request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), via the documentary submissions of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The landlord submitted 2 signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on March 21, 2014, the landlord served each tenant with the Notice of Direct Request Proceeding, including the landlord's application, via registered mail. Pursuant to section 90 of the Act, the documents were deemed served 5 days later.

Based on the written submissions of the landlord, I find that the tenants have been served with the Direct Request Proceeding documents as required under section 89(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and a monetary order due to unpaid rent?

Background and Evidence

The landlord submitted the following additional evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on March 14, 2012, appearing to indicate a monthly rent of \$1700 due on the last day the month for the next monthly rental period, beginning on April 1, 2012;

- A copy of the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities which was dated March 10, 2014, with a stated effective move out date of March 21, 2014, listing \$1721.50 in unpaid rent, and a late fee of \$25 as of March 1, 2014;
- A signed Proof of Service that the tenants were served the Notice by leaving it with tenant CS on March 10, 2014; and
- A tenant ledger sheet showing payments owed and payments made.

The Notice states that the tenants had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

The written tenancy agreement states that the tenancy was for a fixed term and that the tenants must move out at the end of the fixed term unless a new tenancy agreement is negotiated.

The landlord's application seeks monetary compensation of \$1721.50, comprised of unpaid rent for March 2014 and a percentage of a late fee for February 2014.

The tenant ledger sheet provided by the landlord shows that monthly rent owed, beginning August 15, 2013, onward, was in the amount of \$1768.

I have no evidence before me that the tenants have filed an application for dispute resolution to dispute the Notice.

Analysis and Conclusion

The direct request procedure is based upon written submissions only. Accordingly, written submissions must be sufficiently complete and must comply with the requirements of the Act in order to succeed.

The written tenancy agreement provided by the landlord shows a monthly rent of \$1700, although this amount was in handwritten form and not completely clear. The landlord's evidence shows monthly rent was \$1768; however the landlord did not provide evidence that the monthly rent had increased.

The written tenancy agreement also states that the tenancy was to end at the end of the fixed term, or in this case March 31, 2013; however, the landlord failed to provide evidence that the parties entered into a new tenancy agreement.

The direct request process is a mechanism that allows the landlord to apply for an expedited decision, which requires 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 case the landlord failed to submit proof that the rent had increased or the tenancy continued despite the terms of the written tenancy agreement and as such, I find the landlord failed to submit sufficient evidence to prove that the amount listed on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was valid.

The direct request process also allows only for issues involving unpaid rent, which does not include any fees which may be owed.

As described above, I therefore find the landlord's application under the direct request proceeding to be deficient as required by the Act and I therefore I dismiss the landlord's application with leave to reapply.

The landlord should not apply for a direct request proceeding unless all documents are prepared in accordance with the Act. Therefore, the landlord may wish to submit a new application through the normal dispute resolution process which includes 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* and is being mailed to both the applicant and the respondents.

Dated: April 04, 2014

Residential Tenancy Branch

