



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST DECISION

Dispute Codes : OPR, MNR

Introduction

The Hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order for rental arrears based on a Ten Day Notice to End Tenancy for Unpaid Rent .

A signed Proof of Service of the Notice of Direct Request Proceeding declared that on May 6, 2014, the landlord served the tenant with the Notice of Direct Request by registered mail. Registered mail is deemed to be served in five days. Based on the written submissions of the landlord, I find the tenant has been duly served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and a monetary Order?

Proof of Service of 10 Day Notice to End Tenancy

The landlord submitted a copy of the Notice to End Tenancy for Unpaid Rent dated April 5, 2014 indicating that the tenant was in arrears for \$600.00. The landlord also submitted a "Proof of Service" form stating that the Notice was served to the tenant by posting it on the door on April 5, 2014 at 9:00 p.m. in front of a witness.

The purpose of serving documents under the *Act* is to notify the person of a failure to comply with the Act and of their rights in response. The landlord, seeking to end the tenancy has the burden of proving that the tenant was served with the Notice to End Tenancy and I find that the landlord has met this burden.

Analysis

This was 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 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 this application did include a copy of a compliant tenancy agreement as described in section 13 of the Act. 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 and I find that this agreement had been signed by the landlord on **May 1, 2014** and was signed by the tenant on **April 28, 2014**.

I find that the parties entered into a written tenancy agreement on May 1, 2014. I find that the agreement was signed after the landlord had issued the 10-Day Notice to End Tenancy for Unpaid Rent on **April 5, 2014**.

Therefore, I find that the tenancy had been reinstated by the parties after the 10-Day Notice to End Tenancy for Unpaid Rent was served on the tenant.

Consequently I find that, due to the reinstatement of the tenancy occurring on May 1, 2014, the 10-Day Notice to End Tenancy for Unpaid Rent issued and served on April 5, 2014 is no longer in effect and cannot be enforced.

Accordingly, I hereby dismiss the landlord's application without leave to reapply.

Conclusion

The landlord is not successful in the Direct Request application, and it is dismissed without leave because the parties reinstated the tenancy after the 10-Day Notice to End Tenancy for Unpaid Rent was served.

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: May 15, 2014

Residential Tenancy Branch

