



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)*, and dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on May 30, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

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

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on January 5, 2014 for a month to month tenancy beginning on January 15, 2014 for the monthly rent of \$600.00. The tenancy agreement does not stipulate the day in the month that rent is due; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 9, 2014 with an effective vacancy date of April 19, 2014 due to \$600.00 in unpaid rent.

Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork, all documents submitted must be complete and clear. In the case before me the tenancy agreement does not stipulate what day of the month that rent is due.

Because Section 46 of the *Act* allows a landlord to end a tenancy if rent is unpaid on **any day after the day it is due** it is imperative, when seeking the end of a tenancy through the Direct Request process, that the tenancy agreement provide confirmation of the day in the month that rent is due. As the tenancy agreement submitted by the landlord does not specifically outline the day in the month that rent is due, I find this Application is not suitable for adjudication through the Direct Request process.

Conclusion

For the reasons, noted above, I dismiss this Application with leave to reapply through the participatory hearing process.

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: June 05, 2014

Residential Tenancy Branch

