



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding G. Laitinen Roofing Ltd
and [tenant name suppressed to protect privacy]

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 21, 2014 at 4:15 p.m. the landlord served each tenant with the Notice of Direct Request Proceeding personally.

Based on the written submissions of the landlord, I find that each 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 9, 2014 for a 2 month and 28 day fixed term tenancy beginning or for another periodic tenancy of a lease arrangement for next 12 months on January 3, 2014 for the monthly rent of \$950.00 due on the 1st of each month and a security deposit of \$475.00 and a pet damage deposit of \$150.00 were paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 1, 2014 with an effective vacancy date of May 18, 2014 due to \$950.00 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.

As the tenancy agreement states that the tenancy is either for a 2 month and 28 day fixed term or for another periodic tenancy with a lease arrangement for next 12 months, I find that I cannot determine whether or not there is a current tenancy. For example, if the tenancy was for a fixed term of 2 months and 28 days then tenancy covered by the tenancy agreement is already ended. If, however, the tenancy continues on as another periodic tenancy for a lease arrangement for next 12 months then the tenancy continues.

As the two clauses checked in the tenancy agreement seem to contradict each other I find that this Application, as is, is not suitable for adjudication through the Direct Request process.

Conclusion

Based on the above, I dismiss this Application in its entirety 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 03, 2014

Residential Tenancy Branch

