Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cyclone Holdings Ltd.
and [tenant name suppressed to protect privacy]

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 Proofs of Service of the Notice of Direct Request Proceeding; that declared that on May 16, 2014 the landlord served the tenants with the Notice of Direct Request Proceeding by registered mail.

Pursuant to section 90 of the *Residential Tenancy Act* the tenants are deemed to have received the documents five days after mailing.   Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?
Is the landlord entitled to a monetary order for unpaid rent and if so, in what amount?

Background and Evidence

The landlord submitted the following documents:

- Copies of the Proofs of Service of the Notice of Direct Proceeding for the tenant;

- A copy of a residential tenancy agreement which was signed by the parties on May 30, 2011, providing for a monthly rent of $825.00 due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on April 2, 2014 with a stated effective vacancy date of April 12, 2014, for $3,275.00 in unpaid rent.

The landlord stated in the application for dispute resolution that its claim for a monetary order consisted of rent for January of $700.00 plus a $25.00 late fee, rent for February of $825.00 plus a $25.00 late fee, rent for March of $825.00 plus a $25.00 late fee and Rent for April of $825.00 plus a $25.00 late fee. The landlord also submitted receipts given "For use and occupancy only" that showed payments totaling $500.00 with an amount shown to be due for February of $600.00. The receipts contradict the claims set out in the application and disagrees with the amount stated in the landlord's Notice to End Tenancy. The Notice to End Tenancy also includes late fees as part of the amount stated to be unpaid rent..

Analysis and conclusion

The Residential Tenancy Policy Guideline with respect to Direct Requests states that:

> The Legislation limits the direct request process to applications for Orders of Possession and Monetary Orders concerning unpaid rent. Requests to keep the security deposit or for compensation for damages are considered through the conventional dispute resolution process.

The guideline goes on to say that:

> The Residential Tenancy Branch may dismiss, with leave to reapply, an application made through the Direct Request process when a landlord:
> - has not provided all the required documents with the application for dispute resolution;
> - has not provided proof of service of the required documents; or
> - has applied to recover the filing fee, retain the security deposit or for compensation other than the unpaid rent, in addition to the Order of Possession and unpaid rent

In this application the landlord has applied to recover amounts in addition to unpaid rent, namely: late fees. I note as well that there is a discrepancy between the amount claimed in the landlord's application and the amounts that are stated to be due in receipts that the landlord supplied in support of its claim. Based on the quoted

provisions of the Policy Guideline and the discrepancy between the claim and the supplied evidence, I dismiss the landlord's application for an order for possession and 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: June 06, 2014

_____
Residential Tenancy Branch