



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bloomsbury Properties Ltd. & Royal Providence Management Inc.
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 June 26, 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 October 20, 2005 for a month to month tenancy beginning on November 1, 2005 for the monthly rent of \$780.00. The agreement states that rent is due on the 1st but it does not clarify the 1st of what period;
- Copies of Notice of Rent Increases over the course of several years changing the rent from \$780.00 at the start of the tenancy to \$882.30 currently; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 10, 2014 with an effective vacancy date of June 20, 2014 due to \$882.30 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of June 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on June 10, 2014 at 5:00 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

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 landlord has submitted a tenancy agreement that does not stipulate specifically when rent is due. Because Section 46 of the *Act* requires that the landlord can only issue a 10 Day Notice to End Tenancy for Unpaid rent on a day after rent is due, it is essential to have this information.

As the required information was not provided in the landlord's documentary evidence I find this Application is not suitable for adjudication through the Direct Request process.

Conclusion

Based on the above, I dismiss this Application for Dispute Resolution with leave to reapply either through a participatory hearing process or by Direct Request if the landlord provides all required information for adjudication.

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: July 08, 2014

Residential Tenancy Branch

