



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This 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 for unpaid rent.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 23, 2014, the Landlord served each Tenant by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the written submissions of the Landlord, I find that each Tenant is deemed served with the Dispute Resolution Direct Request Proceeding documents on June 28, 2014, five days after they were mailed, pursuant to section 90 of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession, pursuant to section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for each Tenant;
- A copy of a residential tenancy agreement which was signed by all parties for a fixed term tenancy that commenced on April 1, 2013, and switched to a month to month tenancy after March 31, 2014, for the monthly rent of \$2,000.00 due on or before the 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 6, 2014, with an effective vacancy date listed as June 16, 2014, due to \$2,000.00 in unpaid rent that was due on June 1, 2014.

Documentary evidence filed by the Landlord indicates that the Tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent on June 6, 2014, at 3:30 p.m. when it was served to a person by the Name of "W....", in the presence of a witness.

Analysis

The Direct Request procedure is based upon written submissions only and requires that the submissions be sufficiently clear, valid and supported by evidence in order to succeed.

Section 88(e) of the Act provides methods of service for certain documents which include leaving the document or Notice at the person's residence with an adult who apparently resides with the person.

The Landlord has filed seeking an Order of Possession and has named the respondents D.D. and C.K. The Proof of Service document for the 10 Day Notice indicates that a person by the first name of "W....." was served with the 10 Day Notice on June 6, 2014 at 3:30 p.m. in the presence of a witness. No additional information was provided such as "W's" last name or if "W" is an adult that resides at the rental unit.

Notwithstanding that there is a W.D. listed as an adult occupant on the tenancy agreement, I find the evidence with respect to the proof of service of the 10 Day Notice to be lacking, as there is no way to confirm if the "W" who was served the 10 Day Notice is the same person as W.D. who is listed on the tenancy agreement; as no surname was provided on the proof of service document.

Based on the aforementioned I find there to be insufficient evidence to proceed through the direct request process and I dismiss the Landlords' application with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's application, 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: July 04, 2014

Residential Tenancy Branch

