



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the “Act”) in response to an Application for Dispute Resolution (the “Application”) made by the Landlords for an Order of Possession and a Monetary Order for unpaid rent.

Analysis

The Direct Request process is a mechanism that allows the Landlord to apply for an expedited decision without a participatory hearing. As a result, the Landlord must follow and submit documentation **exactly** as the Act prescribes and there can be no omissions or deficiencies within the written submissions that are left open to interpretation or inference. However, in this matter there exist a number of deficiencies with the Application that does not allow me to proceed with the Direct Request proceeding.

The Landlords provided a tenancy agreement which details that rent is payable by the Tenants on the “**30st**” day of each month. I am only able to conclude from this that the Landlords refer to this rent payable date as the 30th of each month.

However, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) and the supporting written evidence shows that the Notice was served to the Tenants on **July 2, 2014** for an amount that was due on the **first** day of July, 2014. The Landlord has not provided any written evidence to support the fact that the Tenant pays rent on the **first** day of each month. Therefore, the due date for the rent payment on the Notice is contradictory to the due date of rent on the tenancy agreement.

The Act states that a Notice can only be served on the day **after** rent is due under the tenancy agreement. As a result, I find that the Notice is invalid and was served to the Tenants prematurely. On this basis, I am unable to proceed with the Landlords’ Application through the Direct Request proceedings and I dismiss the Application.

However, the Landlord is at liberty to issue the Tenants with a valid Notice and make another Application under the Direct Request or participatory hearing process. The Landlords should also make note of further deficiencies in this Application when considering the making of another Application.

- The Landlords only provided one Proof of Service document showing that only one of the Tenants was served with the Notice of Direct Request Proceedings. When a Landlord makes an Application and names several parties in the Application, the Landlord must be able to prove service of documents on each party named. Failure to do so could undermine portions of the Application.
- The Landlord's monetary claim on this Application consists of an amount of **\$1,110.00** in unpaid rent for July, 2014. However, the tenancy agreement states that rent is payable by the Tenants in the amount of **\$1,150.00**. To further confuse matters, the Landlords write in the details section of the Application that the Tenants paid **\$940.00** for July, 2014 rent. The absence of an explanation in the discrepancies of these amounts undermines the monetary claim in the Application.
- The spelling of the Landlord's last name varies throughout the written documentation provided and the written evidence provided in parts is difficult to read. A Landlord must ensure that written evidence provided for a non participatory hearing where there is no opportunity to explain the evidence, is clear, legible and easy to understand and follow throughout the documentation.

Conclusion

For the reasons set out above, **I dismiss** the Landlords' application. The Landlord is at liberty to issue a new valid Notice and/or submit a new Application through the Direct Request process or through the conventional dispute resolution process which includes a participatory hearing if the above discrepancies can be explained.

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 18, 2014

Residential Tenancy Branch