



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 August 14, 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 May 13, 2013 for a 1 year fixed term tenancy beginning on June 1, 2013 for the monthly rent of \$888.00 due on the 1st of each month and a security deposit of \$450.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on August 2, 2014 with an effective vacancy date of August 12, 2014 due to \$1,776.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of June and August 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by registered mail on August 2, 2014.

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.

The landlords have also submitted a letter of explanation indicating they had issued a 2 Month Notice to End Tenancy for Landlord's Use on May 14, 2014 with an effective date of July 31, 2014 and as such the landlord is not claiming rent for the month of July 2014.

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 landlords indicated that they had issued a 2 Month Notice to End Tenancy for Landlord's Use of Property that required the tenancy to end and the tenant vacate by July 31, 2014. The landlords then issued the 10 Day Notice to End Tenancy for Unpaid Rent on August 2, 2014; after the tenancy had ended.

As a result, I find that there are a number of additional factors that an Arbitrator would need to consider in this Application that cannot be determined without the benefit of a participatory hearing.

Conclusion

Based on the above, I dismiss the landlords' Application for Direct Request with leave for the landlords to apply 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: August 22, 2014

Residential Tenancy Branch

