



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JADEM HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR

Introduction

The landlord applied for an Order of Possession and a Monetary Order for unpaid rent under the Direct Request Procedure, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act").

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on August 29, 2014 the Notice of Direct Request Proceeding and supporting documents were sent to the tenant via registered mail at the rental unit. The landlord provided a registered mail receipt, including tracking number, as proof of service. Section 90 of the Act deems a person to have received documents five days after mailing. .

Based on the written submissions of the landlord, I find that the tenant has been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession and monetary compensation for unpaid rent?

Background and Evidence

Included in the landlord's documentary evidence was a copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated August 7, 2014 indicating rent in the sum of \$5,600.00 was outstanding as of August 1, 2014.

The landlord provided a signed Proof of Service for the 10 Day Notice whereby the landlord declared that a 10 Day Notice was posted on the tenant's door on August 13, 2014. However, the witness as to service of the 10 Day Notice submitted that she observed the landlord post the 10 Day Notice to the tenant's door on August 7, 2014.

Also included in the landlord's evidence was a Monetary Order Worksheet indicating that as of the date of filing the tenant owed rent of \$4,900.00. In the column entitled

“Portion Paid Date of Payment” the landlord indicates that \$1,200.00 was paid toward rental arrears for November 2011 “over time”.

Analysis

As the Direct Request procedure is based upon written submissions of the landlord only, the submissions must be complete, consistent and valid in order to succeed.

Given the inconsistency between the landlord’s declaration and the witness’s statement as to when the 10 Day Notice was served I find I am unable to conclude the 10 Day Notice presented to me was served upon the tenant.

Of further consideration is that the Monetary Order Worksheet does not include all of the required information with respect to the date(s) of partial payments and I am unable to reconcile the balance appearing on the Monetary Order Worksheet to the amount appearing on the 10 Day Notice.

For the reasons given above, I deny the landlord’s request for an Order of Possession and Monetary Order and dismiss this application with leave to reapply.

Conclusion

The landlord’s application for an Order of Possession and Monetary Order were dismissed with leave to reapply due to inconsistent and incomplete submissions.

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: September 11, 2014

Residential Tenancy Branch

