



Dispute Resolution Services

Page: 1

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 September 19, 2014, the Landlord personally served the Tenant. Based on the written submissions of the Landlord, I find that the Tenant was sufficiently served with the Dispute Resolution Direct Request Proceeding documents on August 5, 2014, in accordance with section 89 of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

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 the Tenant;
- A copy of the Landlord's Application for Direct Request and the Monetary Order Worksheet;
- A copy of a residential tenancy agreement for a month to month tenancy that began on August 27, 2014, for the rent of \$575.00. The tenancy agreement does not indicate if the rent is payable monthly, weekly, or daily and it does not specify on what day of the month rent is payable;
- An incomplete 10 Day Notice to End Tenancy for Unpaid Rent issued on September 10, 2014, with an effective vacancy date of September 20, 2014, due to \$575.00 in unpaid rent; however, the 10 Day Notice does not indicate when that rent was due.

Documentary evidence filed by the Landlord indicates that the Tenant was served the 10 Day Notices to End Tenancy for Unpaid Rent on September 10, 2014, when it was posted to the Tenant's door, 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.

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities, I find the evidence with respect to the tenancy agreement and the 10 Day Notice to be lacking. The Landlord submitted copies of a tenancy agreement and the 10 Day Notice with neither document specifying when rent is payable; therefore, there is insufficient evidence to prove rent was late.

Although oral terms contained in, or form part of, tenancy agreements and may still be recognized and enforced in a participatory hearing, they do not meet the requirements for a Direct Request Proceeding. A properly completed and signed tenancy agreement and 10 Day Notice must be submitted as evidence when an application is made through the Direct Request process.

Based on the aforementioned I find there to be insufficient evidence to proceed through the direct request process and I find the 10 Day Notice issued September 10, 2014 to be invalid. Accordingly, I dismiss the Landlords' application without leave to reapply.

Conclusion

I HEREBY DISMISS this application, without leave to reapply.

The 10 Day Notice issued September 10, 2014 is HEREBY CANCELLED and is of no force or effect.

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 24, 2014

Residential Tenancy Branch

