



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals
and [tenant name suppressed to protect privacy]

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 September 16, 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 tenant and naming a different landlord than that named on the Application for Direct Request on March 1, 2011 for a 1 year fixed term that began on March 1, 2011 and converted to a month to month tenancy beginning on March 1, 2012 for the

monthly rent of \$1,270.00 due on the 1st of each month and a security deposit of \$635.00 was paid;

- A copy of a Notice of Rent Increase issued by the landlord named in the tenancy agreement and not the landlord named on the Application for Direct Request increasing the rent to \$1,324.00 effective June 1, 2012;
- A copy of a "Tenant File Change" document requesting reducing the tenant's rent to \$1,295.00. There is no indication that this amount was approved; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 5, 2014 with an effective vacancy date of September 15, 2014 due to \$610.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of September 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on September 5, 2014 at 4:00 p.m. and that this service was witnessed by a third party.

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.

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.

The landlord named in the Application for Direct Request and the 10 Day Notice to End Tenancy differs than the landlord named in the tenancy agreement and Notice of Rent Increase submitted into evidence. However, the applicant landlord has provided no explanation as to why there is a difference in the landlords' during the course of the tenancy.

As such, I cannot determine who the actual landlord in this tenancy is and find the Application, as it is, is unsuitable for adjudication through the Direct Request process.

Conclusion

Based on the above, I dismiss this Application with leave to reapply either through a participatory hearing or through the Direct Request process if the landlord can provide complete and clear documentary evidence to ensure all required information is available.

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 22, 2014

Residential Tenancy Branch

