



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This non-participatory matter was conducted by way of a direct request proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), via the documentary submissions only of the landlord, and dealt with an application for dispute resolution by the landlord for an order of possession for the rental unit and a monetary order for unpaid rent, pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”).

In addition to other documentary evidence, the landlord submitted a copy of the Notice, which stated the tenant had not paid monthly rent of \$1800 due on September 15, 2014, and a copy of the parties’ tenancy agreement which stated that monthly rent was due on the 1st day of each month. The landlord’s additional documentary evidence included a monetary order worksheet, indicating that the amount of \$1100 was due on September 15, 2014, and that the tenant had a balance owing of \$700.

Analysis and Conclusion

The direct request procedure is based upon written submissions only. Accordingly, written submissions must be sufficiently correct and must comply with the requirements of the Act in order to succeed. There can be no deficiencies with the written submissions left open to inference or interpretation.

Section 46 of the Act allows a landlord to give notice to a tenant to end a tenancy if rent is unpaid on any day after the day it is due. According to the written tenancy agreement submitted by the landlord, the tenant’s monthly rent was not due on September 15, 2014, and the monetary order worksheet contradicts that the amount listed on the Notice.

.

As described above, I therefore find the Notice is not enforceable as the date for unpaid rent contradicts the written tenancy agreement and the landlord's additional documentary evidence contradicts the amount of unpaid rent listed on the Notice.

I therefore find the landlord's application cannot succeed under the direct request process and I dismiss the landlord's application with leave to reapply.

Therefore, the landlord may wish to submit a new application through the normal dispute resolution process which includes a participatory hearing to explain any discrepancies in their documentary 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: October 31, 2014

Residential Tenancy Branch

