



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the "Act"), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order for unpaid rent.

The landlord submitted signed Proofs of Service of the Notice of Direct Request Proceeding; they declared that on October 30, 2014 the landlord served the tenants with the Notice of Direct Request Proceeding by registered mail.

Pursuant to section 90 of the *Residential Tenancy Act* the tenants are deemed to have received the documents five days after mailing. Based on the written submissions of the landlord, I find that the tenants have been duly served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary order for unpaid rent and if so, in what amount?

Background and Evidence

The landlord submitted the following documents:

- Copies of the Proofs of Service of the Notice of Direct Proceeding for the tenants;
- A copy of a residential tenancy agreement which was signed by the parties on February 27, 2006, providing for a monthly rent of \$850.00 due on the first day of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on October 2, 2014 with a stated effective vacancy date of October 12, 2014, for \$4,620.00 in unpaid rent.

The landlord stated in the application for dispute resolution that the tenant has not paid rent for several months and referred to a tenant ledger. The landlord did not complete a monetary order worksheet, but submitted a blank monetary order worksheet that referenced a tenant ledger. The landlord did not submit copies of any Notices of Rent Increase. The submitted tenant ledger commenced with the month of June, 2013 and showed arrears of \$1,800.00 carried forward from previous months. I was unable to determine from the landlord's documents, what the landlord says is the current monthly rent and I was unable to determine how the landlord arrived at the amount stated to be due on the Notice to End Tenancy for unpaid rent.

Analysis and conclusion

The Residential Tenancy Policy Guideline with respect to Direct Requests states that:

ONUS ON THE LANDLORD

The landlord must provide, when making an application for dispute resolution, copies of:

- the tenancy agreement;
- documents showing changes to the tenancy agreement or tenancy, such as rent increases, or changes to parties or their agents;

The guideline goes on to say that:

The Residential Tenancy Branch may dismiss, with leave to reapply, an application made through the Direct Request process when a landlord:

- has not provided all the required documents with the application for dispute resolution;
- has not provided proof of service of the required documents; or
- has applied to recover the filing fee, retain the security deposit or for compensation other than the unpaid rent, in addition to the Order of Possession and unpaid rent

In this application the landlord has applied to recover amounts for unpaid rent, for periods prior to June, 2013. He has not provided evidence to establish rent increases that may have been imposed and I am unable to determine from his ledger sheet how the claimed amount for rent was calculated. Based on the quoted provisions of the Policy Guideline and the discrepancy between the claim and the supplied evidence, including the absence of necessary evidence of rent increases and accounts and calculations for periods before June, 2013, I dismiss the landlord's application for an order for possession and a monetary order with leave to reapply. If the landlord submits a new application for dispute resolution with respect to this matter, it should be set for a participatory hearing rather than by way of a direct request.

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: November 13, 2014

Residential Tenancy Branch

