



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 525 10th Street Ltd c/o Martello Property Services Inc.
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 Direct Request 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 November 20, 2014 the landlord served the both tenants with the Notice of Direct Request Proceeding via registered mail. The landlord provided a copy of the package that shows it was addressed solely to the male tenant.

The landlord then later provided another Proof of Service of the Notice of Direct Request Proceeding that declares on November 21, 2014 the landlord served the female tenant with the Notice of Direct Request Proceeding via separate 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 each 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 tenants and someone representing the landlord only (not including the property management company named in the Application for Dispute Resolution) on January 27, 2014 for a 1 year and 1 day fixed term tenancy beginning on February 1, 2014 for the monthly rent of \$875.00 due on the 1st of each month and a security deposit of \$437.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 5, 2014 with an effective vacancy date of November 18, 2014 due to \$600.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of November 2014 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally to both tenants on November 5, 2014 and that this service was witnessed by a third party. In addition the male tenant signed the proof of service document confirming he had received the 10 Day Notice to End Tenancy.

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. Because the tenancy agreement names one party as the landlord that does not include the property management company name and there are no documents submitted by the landlord that would confirm the property management company as the authority to act on the landlord's

behalf, I find this Application for Direct Request is not suitable for adjudication through the Direct Request process as it is submitted.

Conclusion

Based on the above, I dismiss the landlord's Application for Direct Request with leave to reapply either through the participatory hearing process or through the Direct Request process if they can provide sufficient documentation to be adjudicated without the benefit of a participatory hearing.

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 27, 2014

Residential Tenancy Branch

