



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

AA matter regarding O J Reasly & Property Management Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

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 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 December 10, 2014 at 6:10 p.m. the landlord served each tenant with the Notice of Direct Request Proceeding personally. Each tenant signed the Proof of Service document confirming receipt of the Notice of Direct Request Proceeding.

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, pursuant to Sections 46 and 55 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 parties on February 13, 2013 for a 1 year fixed term tenancy beginning on March 1, 2013 that converted to a month to month tenancy on March 1, 2014 for the monthly

rent of \$1,050.00 due on the 1st of each month and a security deposit of \$525.00 was paid;

- A copy of a Notice of Rent Increase increasing rent to \$1,075.00 effective September 1, 2014; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on December 2, 2014 with an effective vacancy date of December 12, 2014 due to \$580.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of November and December 2014 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally to one of the tenants on December 2, 2014 at 6:09 p.m. and that this service was acknowledged by the tenant who signed the proof of service document.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The landlord has not fully completed the Application for Direct Request providing any explanation as to why she is not claiming a monetary order for any outstanding rent payments.

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.

As noted above, without knowing why the landlord is not applying for a monetary order I cannot determine based on the written submissions whether or not the tenants have paid the outstanding rent and if they did so, on what date. As such, I find the landlord's Application as submitted is not suitable for adjudication through the Direct Request process.

Conclusion

Based on the above, I dismiss the landlord's Application for Direct Request with leave to reapply either through a participatory hearing or by providing sufficient information and evidence to allow adjudication through the Direct Request process.

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: December 12, 2014

Residential Tenancy Branch

