



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Waterscapes Homes LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, OPR

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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on December 19, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding by having a witness present when personally serving the tenant.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding;

- A copy of a residential tenancy agreement which was signed by the parties on November 1, 2014, indicating that the tenant is obligated to pay \$1650.00 in rent in advance on the first day “of each day”;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which the landlord served on the tenant on December 12, 2014 for \$1650.00 in unpaid rent due in the month of December; and
- A copy of the Proof of Service of the Notice to End Tenancy showing that the landlord served the notice to end tenancy on the tenant by having a witness present when personally serving “John”.

Analysis

The landlord has applied for an order of possession and a monetary order by way of the Direct Request Process. The landlord has submitted a “Proof of Service” document to accompany the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The “Proof of Service” reflects the landlord served an individual by the name of “John” on December 12, 2014 with the Notice. Although the landlord has submitted the “Proof of Service” document, it is not complete. The document requires the person serving the notice to write out the intended person’s full name. On the first page it states the tenant as being Lee Adak, but on page 2 the person served is listed simply as “John” ; neither of which is the tenants full name listed in the landlords application. I am not satisfied that the tenant was served the actual Notice in the manner as prescribed by the Act. In addition, the landlord stated on the tenancy agreement that the rent due is \$1650.00 each day. The landlords’ incomplete nature of their documentation raises questions and concerns; as noted in the underlined portions above.

The Direct Request Process is a mechanism that allows the landlord to apply for an expedited decision, with that the landlord must follow and submit documentation exactly as the Act prescribes; there can be no omissions or deficiencies with items being left open to interpretation or inference as is the case before me.

I am unable to consider the landlords' application for a monetary award and order of possession against the tenant due to the landlords' incomplete and incorrect paperwork to support the service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities or the amount being sought.

The landlords' application is dismissed with leave to reapply.

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: January 05, 2015

Residential Tenancy Branch

