



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 Dispute Resolution 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 December 24, 2014 the landlord served the tenant with the Notice of Direct Request Proceeding via 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 the 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 parties on March 1, 2013 for a 1 year fixed term tenancy beginning on March 1, 2013 for the monthly rent of \$700.00 due on the 1st to 5th of each month and a security deposit of \$350.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on December 1, 2014 with an effective vacancy date of December 15, 2014 due to \$1,250.00 in unpaid rent.

The landlord has provided no information in his Application for Direct Request regarding how or when the 10 Day Notice to End Tenancy was served on the tenant.

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.

In the case before me, I find the landlord has failed to provide evidence to support that the 10 Day Notice to End Tenancy for Unpaid Rent was ever served to the tenant or if it was served no evidence of when and how it was served was provided. As such, I find this Application is not suitable for adjudication through the Direct Request process as 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 by Direct Request with complete and full evidence.

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 9, 2015

Residential Tenancy Branch

