



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR

Introduction

This matter proceeded by way of an *ex parte* 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 a monetary Order based on unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on March 19, 2015, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on May 16, 2014, indicating a monthly rent of \$720.00 due on the first day of the month for a tenancy commencing on May 16, 2015;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 08, 2015, and posted to the tenant's door on March 08, 2015, with a stated effective vacancy date of March 18, 2015, for \$720.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 10:00 a.m. on March 08, 2015. The 10 Day Notice states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

Direct request proceedings are *ex parte* proceedings. In an *ex parte* proceeding, the opposing party is not invited to participate in the hearing or make any submissions. As there is no ability of the tenants to participate, there is a much higher burden placed on landlords in these types of proceedings than in a participatory hearing. This higher burden protects the procedural rights of the excluded party and ensures that the natural justice requirements of the Residential Tenancy Branch are satisfied.

I find that the tenant's address for service of documents on the Application for Dispute Resolution and the Proof of Service Notice of Direct Request Proceeding is different than the dispute address. Since the landlord has only applied for a monetary Order and has not applied for the Order of Possession in this application, it would indicate that the tenant is no longer living at the rental unit.

I further find that the Canada Post Customer Receipt shows that the landlord sent the Notice of Direct Request Proceeding documents to the dispute address, where the tenant can no longer be served with documents as it would appear that they no longer reside there. There is no proof that the tenant has been served with the Notice of Direct Request Proceeding documents.

Therefore, I dismiss the landlord's application for a monetary Order with leave to reapply.

I note that the Direct Request process is strictly for a landlord to acquire an Order of Possession and the monetary Order for the rent owing as a result of a 10 Day Notice issued to the tenant.

The landlord should not be using the Direct Request process for the purpose of acquiring a monetary Order when there is no Order of Possession required as a result of a 10 Day Notice issued to the tenant.

Conclusion

I dismiss the landlord's application for a monetary Order 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: March 25, 2015

Residential Tenancy Branch

