



Dispute Resolution Services

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* (the "Act"), and dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession and a Monetary Order.

The Landlords submitted two signed Proof of Service of the Notice of Direct Request Proceeding which declare that on January 14, at 2:45, the Landlord CT mailed the Notice of Direct Request Proceeding by registered mail to each of the Tenants at the rental unit. The Landlords provided a copy of the registered mail receipts and tracking numbers in evidence.

Based on the Landlords' written submissions, I find that both of the Tenants have been served with the Direct Request Proceeding documents.

Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession and a Monetary Order for unpaid rent, unpaid utilities and loss of rental income?

Background and Evidence

The Landlords submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding for both of the Tenants;
- A copy of a registered mail receipt dated December 31, 2015;
- A copy of a residential tenancy agreement which was signed by the parties on November 5 and 7, 2015, indicating a monthly rent of "795+ \$80/mo toward hydro = \$875 total". Rent is due on the first day of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was issued on December 31, 2015, with a stated effective vacancy date of January 15, 2016 for "725 bal due (rec'd \$150 toward \$875 Dec 16 *\$95 rent and \$80 hydro)" in unpaid rent; and
- A Direct Request Worksheet.

Documentary evidence filed by the Landlords indicates rent owed for December, 2015 is “\$795 + \$80 towards hydro less \$150 paid on “12/16/15” for a balance of \$725”. The Landlords also seek \$875.00 for the month of January, 2016. The calculation includes a note, “the notice was sent before Jan rent was due”.

The December 31, 2015, registered mail receipt is addressed to one of the Tenants (no first name on the receipt). There is no street address on the receipt.

Analysis

The Direct Request procedure is an expedited procedure which is based on written documentation only. The Direct Request procedure is also a limited procedure which may only be used if the Tenant has not paid rent or filed an application to cancel a Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Applications processed through the Direct Request procedure must be completed correctly and have all required supporting documentation attached. There is no ability for an arbitrator to ask questions of the parties.

In this case, I dismiss the Landlord's Application for Dispute Resolution for the following reasons:

1. I find that there is insufficient documentary evidence to prove that the Tenants were served with the Notice to End Tenancy in accordance with the provisions of Section 88 of the Act. There is insufficient evidence that the registered mail dated December 31, 2015, was sent to the rental unit; or what was included in the registered mail package.
2. The Landlords' Direct Request Worksheet provides that the Landlords are seeking a monetary award for unpaid rent, unpaid utilities, and unpaid rent for January, 2016. The Landlords' Application discloses a different calculation (includes \$144.00 for “Nov-Dec hydro + Dec/Jan hydro bill avail next week”).

Conclusion

For the reasons set out above, **I dismiss the Landlords' application.** The Landlords are at liberty to issue and serve another Notice to End Tenancy for Unpaid Rent and are cautioned that the Direct Request process is not intended for other than a request for an Order of Possession and monetary award for unpaid rent only. Otherwise, the Landlords may wish to proceed by way of participatory Hearing, where questions can be asked and answered.

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: February 01, 2016

Residential Tenancy Branch