

DECISION

Dispute Codes OPR MNR

Introduction

This hearing proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession for unpaid rent 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 June 12, 2010, the Landlord served the Tenant with the Notice of Direct Request Proceeding, in person at the rental unit. Based on the written submissions of the Landlord, I find that the Tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession and a Monetary Order under section 55 of the *Residential Tenancy Act*?

Background and Evidence

I have carefully reviewed the following evidentiary material submitted by the Landlord:

- A copy of the Proof of Service of the Notice of Direct Proceeding for the Tenant; and
- A copy of a document signed by the Landlord and Tenant which states the Tenant paid a security deposit of \$400.00 on July 15, 2004, and deposit to the hydro company on behalf of the Landlord's hydro account in the amount of \$500.00; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, June 2, 2010, with an effective vacancy date of June 16, 2010 due to \$3,025.00 in unpaid rent which was due on March 11, 2010; and
- A document created by the Landlord which explains the unpaid rent of \$3,025.00 was an accumulated amount of unpaid rent between January 2010 and June 2010.

Documentary evidence filed by the landlord indicates that the Tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the Tenant's door on June 2, 2010, at 8:30 p.m., in the presence of a witness.

Analysis

The Landlord has provided a copy of the 10 Day Notice to End Tenancy which was issued on June 2, 2010, and states "you have failed to pay rent in the amount of \$3,025.00 that was due on 11 03 2010 (Day Month Year)". The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlord is seeking to end the tenancy due to this breach; however, the landlord has the burden of proving that the tenant was served with the 10 day Notice to End Tenancy which meets the form, content, and service under sections 52 and 89 of the *Residential Tenancy Act*.

I find that the 10 Day Notice issued by the Landlord does not meet the requirements of the *Act* as the Notice was issued June 2, 2010, the tenancy has continued and there is indication that rent has not been paid in full up to June 1, 2010. Therefore the Notice should stipulate the total balance of \$3,025.00 was due on June 1, 2010 and not March 11, 2010. I note there was no tenancy agreement provided in evidence to substantiate the amount and date rent is payable under the tenancy agreement. Based on the aforementioned I find the 10 Day Notice to End Tenancy issued on June 2, 2010 is invalid and I hereby dismiss the Landlord's application without leave to reapply.

Conclusion

I HEREBY ORDER the 10 Day Notice to End Tenancy issued for Unpaid Rent and dated June 2, 2010, is void and is without force or effect.

I HEREBY DISMISS the Landlord's application, without 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: June 16, 2010.

Dispute Resolution Officer