



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 September 7, 2012, at 2:49 p.m. the Landlord served the Tenant with the Notice of Direct Request Proceeding with the Tenant at the rental unit address and by registered mail. There were no Canada Post receipts attached to the proof of service document however there was a Canada Post Date stamp on the proof of service form.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order pursuant to 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;
- A copy of a residential tenancy agreement which was signed by all parties for a month to month tenancy beginning July 15, 2008, for the monthly rent of \$1,500.00 and a security deposit of \$750.00 was paid; and
- A copy of an outdated 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 22, 2012, with an effective date listed as September 1, 2012, due to \$1,500.00 in unpaid rent that was due on August 1, 2012.
- A copy of a current 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, August 22, 2012, with an effective date listed as September 1, 2012, due to \$1,500.00 in unpaid rent that was due on August 1, 2012.
- Documentary evidence filed by the Landlord indicates that the Tenant was served one of the 10 Day Notices to End Tenancy for Unpaid Rent on August 22,

2012 at 9:35 a.m. when it was left personally with the Tenant in the presence of a witness.

Analysis

The Landlord has provided contradictory information which indicates the Tenant was served the Direct Request hearing documents personally at the rental unit and by Registered mail. A Canada Post date stamp is located at the bottom of the proof of service document however there was no Canada Post receipt attached to the proof of service document even though the document states:

“Attach a completed Canada Post Registered Mail Receipt, including tracking number here or on a separate page”

The Landlord has provided contradictory information which indicates the Tenant was served personally at the rental unit and by Registered mail. Therefore, I cannot determine how or when the Tenant was served with the hearing documents.

Furthermore, the tenancy agreement stipulates rent is payable in the amount of \$1,500.00 each month however it does not stipulate which day of the month rent is payable.

Also, the Landlord submitted copies of two 10 Day Notices issued on August 22, 2012. The proof of service document did not indicate which 10 Day Notice was actually served to the Tenant, the outdated form or the new form.

Conclusion

Upon consideration of the above mentioned inconsistencies I find this application does not meet the requirements of the Direct Request Process and the application is DISMISSED with leave to reapply through the participatory hearing process.

No findings of fact or law have been made pertaining to the 10 Day Notices issued August 22, 2012.

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: September 17, 2012.

Residential Tenancy Branch