



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

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 September 24, 2012 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 May 14, 2011 for a 1 year fixed term tenancy beginning on May 1, 2012 for the monthly rent of \$950.00 due on the 1st of each month and a security deposit of \$475.00 was paid. The tenancy agreement stipulates that the tenant must vacate the rental unit at the end of the fixed term tenancy on May 31, 2012; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 12, 2012 with an effective vacancy date of September 22, 2012 due to \$950.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of September 2012 and that the tenant was served the 10 Day

Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on September 12, 2012 at 3:30 p.m. and that this service was witnessed by a third party.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and find that the tenancy agreement stipulates the fixed term tenancy ended on May 31, 2012 and the tenant was required to vacate the rental unit on that date. There is no documentary evidence to determine what the terms of any new tenancy agreement may have been for a tenancy that may have continued after May 31, 2012.

As the Direct Request process does not allow an opportunity for any questions to be answered by either party of the tenancy, I find this method of adjudication is not suitable for this Application.

Conclusion

For the reasons noted above, I dismiss this Application with leave to reapply through a participatory hearing process or by filing all documentation to establish the terms of this tenancy through the Direct Request process.

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: October 01, 2012.

Residential Tenancy Branch