



Dispute Resolution Services

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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 (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 25, 2014 at 6:00 p.m. the landlord served each respondent with the Notice of Direct Request Proceeding personally and that this service was witnessed by a third party.

Based on the written submissions of the landlord, I find that all three respondents have been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

Upon review of the tenancy agreement submitted by the landlord as evidence I find that while the landlord has named two landlords as applicants, there is only one landlord named on the tenancy agreement. In addition, I note that only the respondents AKY and BDY are signatories to the tenancy agreement. While the tenancy agreement does list respondent TJK as a tenant there is no evidence before me that he has signed the tenancy agreement.

As such, I amend the landlord's Application for Direct Request to name only the party named in the tenancy agreement as the landlord as the applicant in this Application. I also amend the landlord's Application for Direct Request to name only the tenants who have signed the tenancy agreement.

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 March 25, 2014 for a month to month tenancy beginning on April 1, 2014 for the monthly rent of \$800.00 due on the 30th of each month and a security deposit of \$400.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 15, 2014 with an effective vacancy date of September 26, 2014 due to an unreadable amount of unpaid rent and \$240.00 in utilities that remains unpaid after a written demand on September 1, 2014.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for an unspecified number of months and utilities that the landlord demanded payment for on September 1, 2014 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent to the respondent named in this Application who is not a signatory to the tenancy agreement on September 15, 2014 at 6:20 p.m. and that this service was witnessed by a third party. I note however the landlord's witness has dated his signature August 15, 2014 (one month prior to his statement that he witnessed the landlord serve the notice).

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

Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork all documents submitted must be complete and clear.

In the Monetary Order Worksheet – Direct Request before me the landlord has indicated that the tenants have failed to pay rent in the amount of \$1,240.00 solely for the month of September 2014. However, the Notice to End Tenancy lists an unreadable amount of rent that is due and \$240.00 in unpaid utilities that the landlord demanded payment for on September 1, 2014.

I note also that the tenancy agreement lists rent as \$800.00 per month and there is no mention in the tenancy agreement that the tenants must pay the landlord any monies for utilities. I also note that the landlord has not provided into evidence any demand letter that he may or may not have given to the tenants on September 1, 2014 demanding payment of \$240.00 or for what utilities these were for.

Based on the above, I find that since the amount of rent listed on the Notice to End Tenancy is unreadable; that there is no evidence before me that the tenants are required to pay the landlord any utility monies; or that the monthly rent amount is changed I find the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on September 15, 2014 to be invalid and ineffective.

In addition I find that based on the evidence submitted by the landlord I cannot determine any amounts as to what may or may not be owed by the tenants to the landlord.

Conclusion

Based on the above, I dismiss the landlord's Application for Direct Request in its entirety 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: October 03, 2014

Residential Tenancy Branch

