



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wanson (Linden) Holdings Ltd., c/o City Base Mgmt.
and [tenant name suppressed to protect privacy]

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 30, 2014 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 9, 2013 for a 11 month and 2 week fixed term tenancy beginning on May 15, 2013 that converted to a month to month tenancy on May 1, 2014 for the monthly

rent of \$750.00 due on the 1st of each month and a security deposit of \$375.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 3, 2014 with an effective vacancy date of September 14, 2014 due to \$750.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of September 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by leaving an adult who apparently lives with the tenant on September 3, 2014 at 3:15 p.m. The landlord's witness has signed the Proof of Service document stating that he observed the landlord's agent served the notice directly to the tenant.

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

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.

As the landlord has submitted a Proof of Service document that states the 10 Day Notice to End Tenancy was served to an adult who apparently lives with the tenant and yet his witness has signed the Proof of Service document stating that the 10 Day Notice to End Tenancy was served directly to the tenant, I find I cannot determine how the Notice to End Tenancy was served to the tenant.

Conclusion

Based on the above, I find the landlord's Application, as submitted, is not suitable for adjudication through the Direct Request process. Therefore, I dismiss the landlord's Application with leave to reapply either through the Direct Request process with

evidence to explain the above noted discrepancy or through the participatory hearing 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 06, 2014

Residential Tenancy Branch

