



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This matter proceeded by way of direct request proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an application for dispute resolution by the landlord for an order of possession for unpaid rent or utilities.

The landlord submitted a signed proof of service of the notice of direct request proceeding which declares that on November 30, 2012, the landlord served the tenant with the notice of direct request proceeding by posting to the tenant’s door.

Section 90 of the *Act* determines that a document served in this manner is deemed to have been served three days later.

Based on the written submissions of the landlord, I find that the tenant has been duly served with the direct request proceeding documents.

Issue to be Decided

- Is the landlord entitled to an order of possession for unpaid rent or utilities?

Background and Evidence

The landlord submitted the following evidentiary material:

- 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 the parties on March 30, 2012, indicating a monthly rent of \$650.00 due on the first day of the month; and
- A copy of a 10 day notice to end tenancy for unpaid rent which was issued on November 26, 2012, with a stated effective date of November 26, 2012, for \$1,675.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay the rent owed and was served the 10 day notice to end tenancy for unpaid rent personally on November 14, 2012 at 2:00 p.m.

The notice states that the tenant had five days to pay the rent in full or apply for dispute resolution or the tenancy would end 10 days from the service date. The tenant did not apply to dispute the notice to end tenancy within five days from the date of service.

The landlord did not fill out the tenant's address at the bottom of the 10 Day Notice.

Analysis

I have reviewed all documentary evidence and on the balance of probabilities I find the following.

The 10 Day Notice submitted in evidence by the landlord was dated November 26, 2012. The proof of service document submitted in evidence by the landlord indicates the landlord served the tenant in person with the 10 Day Notice on November 14, 2012. **I find** the 10 Day Notice is **invalid** as the evidence indicates that the 10 Day Notice was signed 12 days after it was served on November 14, 2012, and the landlord failed to complete the tenant's address at the bottom of the 10 Day Notice.

Therefore, **I dismiss** the landlord's application in full based on the invalid 10 Day Notice. The landlord is at liberty to issue a new 10 Day Notice in accordance with the *Act*.

Conclusion

I dismiss the landlord's application in full due to the 10 Day Notice being invalid. The landlord is at liberty to issue a new 10 Day Notice in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 07, 2012

Residential Tenancy Branch