



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, although I waited until 10:00 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

Service of Documents

The landlords entered written evidence that their agent posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door at 6:15 p.m. on August 12, 2013. The landlords entered into written evidence a copy of the 10 Day Notice and a witnessed Proof of Service Document with respect to the 10 Day Notice. In accordance with sections 88 and 90 of the *Act*, I am satisfied that the tenant was deemed served with the 10 Day Notice on August 15, 2013, the third day after its posting.

The female landlord (the landlord) testified that the landlords' agent served the landlord with their dispute resolution hearing package by handing it to the tenant. However, the landlords were not certain when this occurred, did not have a written statement from their agent and the agent was not available when I attempted to connect with him to participate in this hearing.

Analysis – Service and Content of Documents

At the hearing, I noted that the 10 Day Notice failed to include an effective date identifying when this tenancy was to end. Section 52(e) of the *Act* requires that an effective date be included in a landlord's notice to end a tenancy. Although section 53 of the *Act* allows me to correct inaccurate effective dates, this provision does not enable me to create an effective date that was not included in the original 10 Day Notice. As

the *Act* requires that a landlord's notice to end a tenancy include the proper content, I advised the landlords that I would be unable to grant their request for an Order of Possession based on the 10 Day Notice they had served to the tenants.

I noted that I could consider the monetary portion of their application if I were satisfied that the tenant was properly served with the landlords' dispute resolution hearing package in accordance with section 89(1) of the *Act*.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;...*
- (c) by sending a copy by registered mail to the address at which the person resides...*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I am not satisfied that the landlords have demonstrated to the extent necessary that the tenant has been served with the dispute resolution hearing package in a manner required by section 89(1) of the *Act*.

Conclusion

I dismiss the landlords' application with leave to reapply. I also find that the landlords' existing 10 Day Notice of August 12, 2013, is of no legal effect or force as it does not contain the necessary content. 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 02, 2013

