



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

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 and a monetary order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on October 17, 2014, the landlord served the tenant with the Notice of Direct Request Proceeding via posting on the door service.

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(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 and 67 of the Act.

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 December 8, 2013, indicating a monthly rent of \$700.00 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 October 2, 2014 with no stated effective vacancy date, for \$700.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant had failed to pay all rent owed and was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting on the door on October 2, 2014. Section 90 of the Act deems the tenant was served on October 5, 2014.

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 from the service date. The tenant did not apply to dispute the Notice to End Tenancy within five days from the date of service.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*. However, the applicant has failed to properly serve the tenant with the application for the Direct Request Process in the approved manner for a monetary claim. In this case the landlord served the tenant by posting it to the rental unit door which is not an approved form of service for a monetary claim. The landlord's monetary claim is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

In Reviewing the applicant's evidence, I also find that the landlord failed to serve the tenant the 10 day notice to end tenancy in the proper form as per Section 52 of the Residential Tenancy Act. It states,

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) **state the effective date of the notice**,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The landlord failed to properly serve the tenant with a complete notice to end tenancy and as such, the landlord's application for an order of possession is dismissed.

Conclusion

The landlord's application is dismissed.

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 27, 2014

Residential Tenancy Branch

