



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 an *ex parte* 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 based on unpaid rent and a monetary Order.

The landlord submitted two signed Proof of Service of the Notice of Direct Request Proceedings which declares that on January 15, 2015, the landlord personally served the tenants the Notice of Direct Request Proceedings. The landlord had a witness sign the Proof of Service for both tenants and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on January 15, 2015, the day it was personally served to them.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 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 Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was not signed by the landlord but was signed by the tenants November 15, 2014, indicating a monthly rent of \$2,200.00 due on the 15th day of the month for a tenancy commencing on November 15, 2014;

- A Monetary Order Worksheet showing the rent owing and paid during this tenancy which has December and January rents written in and then crossed out; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) personally served to one of the tenants on December 22nd, 2014, with a stated effective vacancy date of January 05, 2015, for \$2,200.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the tenant failed to pay all outstanding rent was served by being personally handed the 10 Day Notice to the tenant on December 22, 2014. In accordance with section 88 of the *Act*, the tenants were duly served with this 10 Day Notice on December 22nd, 2014, the day it was personally served.

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

Analysis

Section 52 of the *Act* provides the following requirements requiring the form and content of notices to end tenancy:

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,...and

(e) when given by a landlord, be in the approved form...

I have reviewed all documentary evidence and I find that the tenant address on the 10 Day Notice is different than the one that is on the Application for Dispute Resolution and the tenancy agreement which has been submitted by the landlord.

I further find that the names on the Proofs of Service for the Direct Request Proceedings are not consistent with the names on the residential tenancy agreement, the 10 Day Notice and the Application for Direct Request submitted by the landlord.

I further find that the residential tenancy agreement has not been signed by the landlord which is required as per Section 12(b) of the *Residential Tenancy Regulation*.

As there are multiple errors in the landlord's 10 Day Notice, which could not be corrected in a participatory hearing, I find that the landlord has not complied with the provisions of section 52 of the *Act*. I dismiss the landlord's application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice of December 22, 2014, without leave to reapply. The 10 Day Notice of December 22, 2014 is cancelled and of no force or effect.

As I cannot issue a monetary Order to an incorrectly identified party, I dismiss the landlord's application for a monetary Order with leave to reapply.

Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of December 22, 2014 is dismissed, without leave to reapply. The 10 Day Notice of December 22, 2014 is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

I dismiss the landlord's application for a monetary Order with leave to reapply.

Due to the numerous inconsistencies regarding the names of the tenants and the address on the tenancy agreement, it would not be advisable to pursue this matter again through the Direct Request Proceeding. Given the inconsistencies in the tenants' names and address of the rental unit, a participatory hearing may prove the best venue to consider any subsequent application for an Order of Possession or a monetary order with respect to this tenancy.

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: January 21, 2015

Residential Tenancy Branch

