



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.

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:

- The landlord submitted a copy of a Canada Post Customer Receipt containing a Tracking Number to confirm the mailing of the Notice of Direct Request Proceeding to the tenant;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on July 01, 2015, indicating a monthly rent of \$750.00, due on the first day of the month for a tenancy commencing on July 01, 2015;
- A Monetary Order Worksheet showing the rent owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 03, 2015, and posted to the tenant’s door on October 03, 2015, with a stated effective vacancy date of October 13, 2015, for \$500.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant’s door at 1:00 p.m. on October 03, 2015. The 10 Day Notice

states that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end.

Analysis

Direct request proceedings are *ex parte* proceedings. In an *ex parte* proceeding, the opposing party is not invited to participate in the hearing or make any submissions. As there is no ability of the tenants to participate, there is a much higher burden placed on landlords in these types of proceedings than in a participatory hearing. This higher burden protects the procedural rights of the excluded party and ensures that the natural justice requirements of the Residential Tenancy Branch are satisfied. In this type of matter, the landlord must prove they served the tenant with the Notice of Direct Request proceeding, with all the required inclusions as indicated on the Notice as per section 89 of the *Act*. One of the required documents to prove this service to the tenant is a signed Proof of Service of the Notice of Direct Request Proceeding which declares that the landlord served the Notice of Direct Request in the required manner. I find that the landlord has not provided a signed Proof of Service of the Notice of Direct Request Proceeding, and for this reason, I am not able to prove service of the Notice of Direct Request Proceeding to the tenant. The registered mail receipt, on its own, is not sufficient to prove service of the Notice of Direct Request Proceeding to the tenant.

Therefore, the landlord's application is dismissed, with leave to reapply.

Conclusion

I dismiss the landlord's application, with leave to reapply.

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: November 06, 2015

Residential Tenancy Branch

