



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 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.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 27, 2016, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had a witness and the tenant sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord and in accordance with section 89, I find that the tenant has been duly served with the Direct Request Proceeding documents on January 27, 2016, 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*?

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 tenants;
- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on April 25, 2015, for a tenancy commencing on April 25, 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 January 04, 2016, and posted to the tenant's door on January 04, 2016, for \$900.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door in the afternoon on January 04, 2016. The 10 Day 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.

Analysis

Section 52 of the *Act* provides the following requirements regarding 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 there is no effective date on the 10 Day Notice which indicates the date that the tenant must move out of or vacate the rental unit, therefore, making the 10 Day Notice incomplete. It is possible to amend an incorrect date but the *Act* does not allow an arbitrator to input a date where none is written in.

I find that the landlord has not complied with the provisions of section 52 of the *Act* in regards to the 10 Day Notice issued to the tenant.

Therefore, 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 January 04, 2016, without leave to reapply. The 10 Day Notice of January 04, 2016 is cancelled and of no force or effect.

I note that the tenancy agreement that was submitted by the landlord is very faint and it is not possible to determine the monthly rent or when it is due. For this reason, it would not be advisable to pursue this application through the direct request process if the landlord chooses to pursue an Order of Possession in the future.

Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of January 04, 2016 is dismissed, without leave to reapply. The 10 Day Notice of January 04, 2016, is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

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: February 01, 2016

Residential Tenancy Branch

