



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 February 06, 2016, the landlord placed the Notice of Direct Request Proceeding in the mail slot of the rental unit. The landlord had a witness sign the Proof of Service Notice of Direct Request Proceeding to confirm this service.

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 October 09, 2015, indicating a monthly rent of \$1,460.00, due on the first day of the month for a tenancy commencing on October 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 January 20, 2016, and placed in the mail slot at the tenant’s residence on January 20, 2016, with a stated effective vacancy date of February 02, 2016, for \$1,460.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was placed in the mail slot at the tenant’s residence at 2:00 p.m. on January 20, 2016.

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

In this type of matter, the landlord must prove they served the tenant the Notice of Direct Request proceeding, with all the required inclusions, as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit service by;

- Leaving a copy with the person;
- By sending a copy by registered mail to the address at which the person resides;
- By leaving a copy with an adult who apparently resides with the tenant; and
- By attaching a copy to the door or other conspicuous place at the address at which the tenant resides.

I find that the landlord has served the Notice of Direct Request Proceeding by leaving it in the mail slot at the tenant's residence, which is not a method of service that is in accordance with section 89 of the *Act*.

Since I find that the landlord has not served the tenant with notice of this application in accordance with section 89 of the *Act*, the landlord's application for an Order of Possession based on unpaid rent 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: February 11, 2016

Residential Tenancy Branch

