



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 Proofs of Service of the Notices of Direct Request Proceeding which declares that on March 21, 2016, the landlord placed the Notices of Direct Request Proceeding in the mailbox of the rental unit. The landlord had a witness sign the Proofs 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*?

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:

- Two copies of the Proof of Service of the Notices of Direct Request Proceeding served to the tenants;
- A copy of a residential tenancy agreement which was signed by the tenants on January 15, 2016, indicating a monthly rent of \$1,400.00, due on the first day of the month for a tenancy commencing on January 15, 2016. A tenancy agreement is an instrument of the landlord, and, once endorsed by the tenant, the landlord's failure to sign their own agreement does not invalidate it;
- 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 March 02, 2016, and posted to the tenants' door on March 02, 2016, with a stated effective vacancy date of March 15, 2016, for \$1,400.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 4:00 p.m. on March 02, 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

In this type of matter, the landlord must prove they served the tenants the Notices 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, 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 or 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 mailbox of the rental unit, 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 and a monetary Order 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: March 24, 2016

Residential Tenancy Branch

