



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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on June 07, 2016, the landlord personally served Tenant J.C. the Notice of Direct Request Proceeding. The landlord had a witness 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 Tenant J.C. has been duly served with the Direct Request Proceeding documents on June 07, 2016, the day it was personally served to them.

The landlord did not submit a signed Proof of Service of the Notice of Direct Request Proceeding for Tenant K.J. as they have stated that Tenant K.J. has vacated the rental unit.

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 Tenant J.C.;

- A copy of a residential tenancy agreement which was signed by the landlord and Tenant K.J. on May 10, 2016, indicating a monthly rent of \$1,300.00, due on the first day of the month for a tenancy commencing on a date not specified in the agreement;
- 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 May 02, 2016, and personally handed to Tenant J.C. on May 02, 2016, for \$3,700.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally handed to Tenant J.C. at 2:00 p.m. on May 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

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 site. It is possible to amend an incorrect date but the *Act* does not allow an adjudicator to input a date where none is written in.

I find that the 10 Day Notice is incomplete and 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 May 02, 2016, without leave to reapply. The 10 Day Notice of May 02, 2016 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice, I dismiss the landlord's application for a monetary Order with leave to reapply.

I note that only Tenant K.J. has signed the tenancy agreement. If the landlord wishes to pursue an Order of Possession for Tenant J.C., the direct request process is not a suitable avenue to this end as a signed tenancy agreement between the tenant in the unit and the landlord is required.

Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of May 02, 2016 is dismissed, without leave to reapply.

The 10 Day Notice of May 02, 2016, 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.

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: June 13, 2016

Residential Tenancy Branch