



Dispute Resolution Services

Page: 1

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 August 18, 2016, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on August 23, 2016, the fifth day after their registered mailing.

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 the tenants;
- A copy of a residential tenancy agreement which was signed by a landlord, who is not the applicant, and the tenant on July 04, 2013, indicating a monthly rent of

\$600.00, due on the first day of the month for a tenancy commencing on August 01, 2013;

- A copy of a Notice of Rent Increase form showing the rent being increased from to the current monthly rent amount of \$1,471.00, effective as of August 01, 2016;
- 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 August 02, 2016, and posted to the tenant's door on August 02, 2016, for \$600.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 10:00 a.m. on August 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 the 10 Day Notice is not signed by the landlord or the landlord's agent. I find that this omission invalidates the 10 Day Notice as the landlord has not complied with the provisions of section 52 of the *Act*.

I note that the landlord on the tenancy agreement is not the applicant and that there is no documentation showing a transfer of management responsibilities. I also note that the address on the tenancy agreement does not match the address on the 10 Day Notice or the Application. It may be advisable for the landlord to pursue the Order of Possession by way of a participatory hearing for any future applications.

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 August 02, 2016, without leave to reapply.

The 10 Day Notice of August 02, 2016 is cancelled and of no force or effect.

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

Conclusion

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

The 10 Day Notice of August 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: August 24, 2016

Residential Tenancy Branch

