



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 landlords for an Order of Possession based on unpaid rent and a Monetary Order.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 18, 2017, the landlords personally served Tenant Al.H. the Notice of Direct Request Proceeding. The landlords had Tenant Al.H. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submissions of the landlords and in accordance with section 89(1) of the *Act*, I find that Tenant Al.H. has been duly served with the Direct Request Proceeding documents on February 18, 2017.

The landlords submitted a second signed Proof of Service of the Notice of Direct Request Proceeding which declares that on February 18, 2017, the landlords served Tenant Aa.H. the Notice of Direct Request Proceeding by personally handing the documents to Tenant Al.H. The landlords had Tenant Al.H. and a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service. Based on the written submissions of the landlords and in accordance with section 89(2) of the *Act*, I find that Tenant Aa.H. has been duly served with the Direct Request Proceeding documents on February 18, 2017.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

The landlords submitted the following evidentiary material:

- A copy of the Proofs 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 landlords and the tenants on November 1, 2014, indicating a monthly rent of \$950.00, due on the first day of the month for a tenancy commencing on November 1, 2014;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 3, 2017, and posted to the tenants' door on February 3, 2017, for \$1,050.00 in unpaid rent.

Witnessed documentary evidence filed by the landlords indicates that the 10 Day Notice was posted to the tenants' door at 5:50 pm on February 3, 2017. 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 (the day when the tenants must move out of or vacate the site) on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice as the landlords have not complied with

the provisions of section 52 of the *Act*. It is possible to amend an incorrect date on the 10 Day Notice, but the *Act* does not allow an adjudicator to input a date where none is written.

Therefore, I dismiss the landlords' application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice of February 3, 2017, without leave to reapply.

The 10 Day Notice of February 3, 2017 is cancelled and of no force or effect.

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

Conclusion

The landlords' application for an Order of Possession on the basis of the 10 Day Notice of February 3, 2017 is dismissed, without leave to reapply.

The 10 Day Notice of February 3, 2017, is cancelled and of no force or effect.

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

I dismiss the landlords' 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: February 22, 2017

Residential Tenancy Branch