



Dispute Resolution Services

Page: 1

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 landlords for an Order of Possession based on unpaid rent.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 2, 2017, the landlords personally served Tenant D.W. the Notice of Direct Request Proceeding. The landlords had Tenant D.W. 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 of the *Act*, I find that Tenant D.W. has been duly served with the Direct Request Proceeding documents on April 2, 2017.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on April 2, 2017, the landlords personally served Tenant R.M. the Notice of Direct Request Proceeding. The landlords had Tenant R.M. 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 of the *Act*, I find that Tenant R.M. has been duly served with the Direct Request Proceeding documents on April 2, 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*?

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 landlord and Tenant R.M. on December 15, 2016, indicating a monthly rent of \$750.00, due on the first day of the month;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portions of this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated February 8, 2017, and personally served to the tenants on February 8, 2017, with a stated effective vacancy date of February 18, 2017, for \$750.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was personally served to the tenants at 7:00 (a.m. or p.m. not indicated) on February 8, 2017.

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

I have reviewed all documentary evidence and I find that the 10 Day Notice does not list the tenants' last names. I find that this omission sufficiently invalidates the 10 Day Notice.

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 8, 2017, without leave to reapply.

The 10 Day Notice of February 8, 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 8, 2017, is dismissed, without leave to reapply.

The 10 Day Notice of February 8, 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: April 07, 2017

Residential Tenancy Branch