



# Dispute Resolution Services

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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 Proof of Service of the Notice of Direct Request Proceeding which declares that on July 21, 2017, the landlords personally served the tenant the Notice of Direct Request Proceeding. The landlords had the tenant 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 the tenant has been duly served with the Direct Request Proceeding documents on July 21, 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 Proof of Service of the Notice of Direct Request Proceeding served to the tenant;
- A copy of a residential tenancy agreement which was signed by a landlord who is not the applicant and the tenant on December 28, 2014;
- Two copies of Notice of Rent Increase forms showing the rent being increased from \$1,050.00 to the current monthly rent amount of \$1,120.00;

- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;
- A copy of a receipt dated July 17, 2017, for \$1,120.00 of rent, paid by the tenant, which indicates the payment is “for use and occupancy only”; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 10, 2017, and personally served to the tenant on July 10, 2017, with a stated effective vacancy date of July 20, 2017, for \$1,120.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenant on July 10, 2017. The 10 Day Notice states that the tenant 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 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.

Section 46 (4) of the *Act* states that, within five days of a tenant receiving the 10 Day Notice, the tenant may either pay the rent or dispute the 10 Day Notice.

I have reviewed all documentary evidence and I find that there is no name indicated for the landlord on the 10 Day Notice issued to the tenant.

I also find that the landlord's name on the residential tenancy agreement does not match the landlord's name on the Application for Dispute Resolution. A third landlord name appears on the Application for Dispute Resolution which does not match the landlord's name on any other documents submitted. I fourth name appears as the landlord's agent on the Notices of Rent Increase forms provided.

In order to complete an Application for Dispute Resolution, the tenant must be able to provide the name of the landlord as a respondent.

There are four different landlords listed in the evidentiary material and no landlord clearly indicated on the 10 Day Notice. This discrepancy raises a question as to who the tenant would name if they were to complete an Application for Dispute Resolution.

As a result of the inconsistency in the landlord's name and the absence of a landlord name listed on the 10 Day Notice, I find that the landlords have not provided the tenant with the opportunity to dispute the 10 Day Notice in accordance with section 46(4) of the *Act*.

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 July 10, 2017, without leave to reapply.

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

### Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of July 10, 2017, is dismissed, without leave to reapply.

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

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

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: July 31, 2017

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Residential Tenancy Branch