



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 landlord for an Order of Possession based on unpaid rent.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on September 1, 2017, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants have been deemed served with the Direct Request Proceeding documents on September 6, 2017, 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*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and Tenant T.A. on January 12, 2017, indicating a monthly rent of \$4,600.00, due on the first day of each month for a tenancy commencing on January 15, 2017;
- A Monetary Order Worksheet showing the rent owing and paid during the relevant portion of this tenancy;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 9, 2017, with a stated effective vacancy date of June 25, 2017, for \$4,600.00 in unpaid rent;
- A Proof of Service Notice to End Tenancy form and a Canada Post Customer Receipt containing a Tracking Number which indicates the 10 Day Notice for June was sent to the tenants by registered mail on June 9, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 13, 2017, with a stated effective vacancy date of July 25, 2017, for \$4,600.00 in unpaid rent ;
- A Proof of Service Notice to End Tenancy form and a Canada Post Customer Receipt containing a Tracking Number which indicates the 10 Day Notice for July was sent to the tenants by registered mail on July 13, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated August 15, 2017, with a stated effective vacancy date of August 25, 2017, for \$4,355.00 in unpaid rent and \$36.10 in unpaid utilities; and
- A witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice for August was posted to the tenants' door on August 15, 2017.

The 10 Day Notices state 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 46(4) (a) of the *Act*, regarding a landlord's notice for non-payment of rent, states that "within 5 days after receiving a notice under this section, the tenant may pay the overdue rent , in which case the notice has no effect."

I have reviewed all documentary evidence and in accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice for June on June 14, 2017, five days after its registered mailing.

I find that the Monetary Order Worksheet submitted by the landlord indicates that the tenants have paid the total rent that was owed on the 10 Day Notice for June on June 12, 2017, within the five day days allowed by 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 June 9, 2017, without leave to reapply.

The 10 Day Notice of June 9, 2017 is cancelled and of no force or effect.

In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice for July on July 18, 2017, five days after its registered mailing.

I find that the Monetary Order Worksheet submitted by the landlord indicates that the tenants have paid the total rent that was owed on the 10 Day Notice for July on July 19, 2017, within the five day days allowed by 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 13, 2017, without leave to reapply.

The 10 Day Notice of July 13, 2017 is cancelled and of no force or effect.

In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the 10 Day Notice for August on August 18, 2017, three days after its posting.

I find that the Monetary Order Worksheet submitted by the landlord indicates that the tenants have paid the total rent that was owed on the 10 Day Notice for August on August 16, 2017, within the five day days allowed by 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 August 15, 2017, without leave to reapply.

The 10 Day Notice of August 15, 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 June 9, 2017 is dismissed, without leave to reapply.

The 10 Day Notice of June 9, 2017, is cancelled and of no force or effect.

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of July 13, 2017 is dismissed, without leave to reapply.

The 10 Day Notice of July 13, 2017, is cancelled and of no force or effect.

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of August 15, 2017 is dismissed, without leave to reapply.

The 10 Day Notice of August 15, 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: September 07, 2017

Residential Tenancy Branch