



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 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 September 07, 2017, 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 was deemed served with the Direct Request Proceeding documents on September 12, 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*?

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 a residential tenancy agreement which was signed by a landlord, who is not the applicant, and the tenant on 01/02/15, indicating a monthly rent of

\$560.00, due on the 31st day of the month, for a tenancy commencing on February 01, 2015;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice), undated, with a stated effective vacancy date of “15/08/61” [reproduced as written], for \$1,250.00 in unpaid rent.

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 dated by the landlord. I note the landlord provided a date in the section below relating to service but did not date the 10 Day Notice itself. 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 further note additional deficiencies in the landlord's Application and submitted evidence which would have made it unsuitable for the direct request process, as follows:

- The landlord's name on the residential tenancy agreement does not match the landlord's name on the Application; nor was there any documentation submitted referring to the transfer of responsibilities from the landlord named on the residential tenancy agreement to the landlord applying for dispute resolution;
- The tenant's last name is spelled differently on the residential tenancy agreement than on the Application, as well as on other documentation submitted with the Application;

- The landlord did not complete the Direct Request Worksheet which is a requirement of the Direct Request process.

Therefore, I dismiss the landlord's Application to end this tenancy and obtain an Order of Possession on the basis of the undated 10 Day Notice submitted with this Application, without leave to reapply.

The undated 10 Day Notice 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 undated 10 Day Notice is dismissed, without leave to reapply.

The undated 10 Day Notice 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: September 18, 2017

Residential Tenancy Branch