



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 September 18, 2017, the landlords sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on September 23, 2017, the fifth day after their registered mailing.

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 a residential tenancy agreement which was signed by the landlord on March 23, 2016 and the tenant on March 31, 2016, indicating a monthly rent of \$850.00, due on the first day of each month for a tenancy commencing on April 1, 2016;

- 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 September 5, 2017, with a stated effective vacancy date of September 15, 2017, for \$920.00 in unpaid rent.

Documentary evidence filed by the landlords indicates that the 10 Day Notice was personally served to the tenant at 11:00 am on September 5, 2017. The landlords had the tenant sign the Proof of Service Notice to End Tenancy form to confirm personal service. 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.

I have reviewed all documentary evidence and I find that the address from which the tenant must move is not the correct address of the rental unit as established in the tenancy agreement. I find that this error in the address of the rental unit invalidates the 10 Day Notice as that the landlords have not complied with the provisions of section 52 of the *Act*.

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 September 5, 2017, without leave to reapply.

The 10 Day Notice of September 5, 2017 is cancelled and of no force or effect.

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

Conclusion

The landlords' application for an Order of Possession on the basis of the 10 Day Notice of September 5, 2017 is dismissed, without leave to reapply.

The 10 Day Notice of September 5, 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: September 27, 2017

Residential Tenancy Branch