



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR FFL

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, a Monetary Order and an Order to recover the filing fee.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declares that on October 13, 2017, the landlord placed the Notices of Direct Request Proceeding in the mail slot of the rental unit. The landlord had a witness sign the Proofs of Service Notice of Direct Request Proceeding to confirm this service.

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*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 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 the tenants on January 23, 2017, indicating a monthly rent of \$2,600.00, due on the first day of each month for a tenancy commencing on January 23, 2017;
- 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 October 03, 2017, with a stated effective vacancy date of October 03, 2017, for \$3,200.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenants' door at 2:30 p.m. on October 03, 2017. The 10 Day Notice states 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

In this type of matter, the landlord must prove they served the tenants the Notices of Direct Request proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit service by, leaving a copy with the person, sending a copy by registered mail to the address at which the person resides, by leaving a copy with an adult who apparently resides with the tenant, or by attaching a copy to the door or other conspicuous place at the address at which the tenant resides.

I find that the landlord has served the Notices of Direct Request Proceeding by leaving it in the mail slot of the rental unit, which is not a method of service that is in accordance with section 89 of the *Act*. Since I find that the landlord has not served the tenants with notice of this application in accordance with section 89 of the *Act*, the landlord's application for an Order of Possession based on unpaid rent and a Monetary Order is dismissed, with leave to reapply.

As the landlord was unsuccessful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the landlord's application for an Order of Possession based on unpaid rent and a Monetary Order, with leave to reapply.

I dismiss the landlord's application for an Order for the recovery of the filing fee, without 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: October 13, 2017

Residential Tenancy Branch