



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

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 a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 01, 2017, the landlord personally served the tenant the Notice of Direct Request Proceeding. The landlord had the tenant sign the Proof of Service of the Notice of Direct Request Proceeding to confirm personal service. Based on the written submission of the landlord 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 November 01, 2017, the day it was personally served to the tenant.

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, who is not the applicant, and the tenant on May 16, 1997, indicating a monthly rent of \$450.00, due on the first day of each month for a tenancy commencing on May 15, 1997;
- Four copies of Notice of Rent Increase forms for 2005, 2011, 2012 and 2016;

- A Tenant Ledger showing the rent owing and paid from May 01, 2016 to October 01, 2017; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 11, 2017, with a stated effective vacancy date of October 24, 2017, for \$4,229.00 in unpaid rent.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 4:00 p.m. on October 11, 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

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 there is no address from where the tenant must move out of or vacate on the 10 Day Notice. 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*.

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 October 11, 2017, without leave to reapply.

The 10 Day Notice of October 11, 2017 is cancelled and of no force or effect.

I also note the landlord's name on the residential tenancy agreement does not match the landlord's name on the Application for Dispute Resolution or the 10 Day Notice. There was also no documentation referring to the transfer of responsibilities from the landlord named on the residential tenancy agreement to the landlord applying for

dispute resolution. Accordingly, this deficiency may have made this application unsuitable for the Direct Request process.

Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice of October 11, 2017 is dismissed without leave to reapply.

The 10 Day Notice of October 11, 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: November 03, 2017

Residential Tenancy Branch