



Dispute Resolution Services

Page: 1

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 (the Application) 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 June 18, 2018, the landlord posted the Notice of Direct Request Proceeding to the door of the rental unit. The landlord had a witness sign the Proof of Service of the Notice of Direct Request Proceeding to confirm this service.

The landlord has stated in their application, dated June 14, 2018, that they have inspected the rental unit and it appears to be abandoned.

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 the tenant on November 26, 2014, indicating a monthly rent of \$1,240.00, due on the first day of each month for a tenancy commencing on June 01, 2014;
- A copy of an unsigned 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 07, 2018 for \$1,240.00 in unpaid rent. The 10 Day Notice provides 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 on the stated effective vacancy date of June 17, 2018;

- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door on June 07, 2018;
- A copy of a picture showing the 10 Day Notice posted to the door
- A copy of an e-mail from the landlord to the tenant, dated June 06, 2018, in which the landlord advised the tenant of an inspection to be completed; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

Analysis

Section 89(2) allows for service of the Notice of Direct Request Proceeding by posting it to the door at the address at which the tenant resides, in consideration of the Order of Possession only.

As it appears that the tenant may have abandoned the rental unit, based on the landlord's statement in their Application, I find that there is a question as to whether the tenant has been served with the Notice of Direct Request Proceeding. If the tenant has actually abandoned the rental unit, any documents sent to the rental unit for service to the tenant cannot be considered served.

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

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 provided in evidence is not signed by the landlord. I further find that this omission would invalidate

the 10 Day Notice as the landlord has not complied with the provisions of section 52 of the *Act*.

Although the picture of the 10 Day Notice that is posted to the door appears to have a signature, the rest of it is illegible and I am not able to confirm whether it contains the same information as the copy provided in evidence. For this reason I cannot consider the picture of the 10 Day Notice posted to the door of the rental unit for the purpose of this Application.

For the above reasons, I dismiss the landlord's application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice dated June 07, 2018, with leave to reapply.

I note that, if the rental unit is abandoned, the landlord may want to review Part 5 of the Residential Tenancy Regulations regarding abandonment.

Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice dated June 07, 2018, is dismissed, with leave to reapply.

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: June 22, 2018

Residential Tenancy Branch