



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-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 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 November 9, 2018, the landlords served the tenant with the Notice of Direct Request Proceeding by way of personal service via hand-delivery. The Proof of Service form also establishes that the service was witnessed by “RD” and a signature for “RD” is included on the form.

Based on the written submissions of the landlords, 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 9, 2018.

Issues 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 and the tenant on January 13, 2015, indicating a monthly rent of \$800.00, due on the first day of each month for a tenancy commencing on February 1, 2015;
- A Direct Request Worksheet showing the rent owing during the portion of this tenancy in question, on which the landlords set out their claim for unpaid rent

owed by November 1, 2018 in the amount of \$2,400.00, comprised of the balance of unpaid rent owed for the months encompassing the period of September 1, 2018 to November 1, 2018.

- A partially complete, undated copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “**Notice**”).
- A copy of the Proof of Service of the Notice form asserting that the landlord served the Notice to the tenant by way of personal service via hand-delivery on October 18, 2018. The personal service was not confirmed by the tenant by way of signing the Proof of Service form. The Proof of Service form does not include a witness signature attesting that the landlord served the tenant with the form.

The Notice restates section 46(4) of the *Act* which provides that the tenant had five days to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the effective date of the Notice.

Analysis

Section 52 of the Act provides the following requirements regarding the form and content of notices to end tenancy. In part, it reads:

Form and content of notice 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,
- [...]

I have reviewed all documentary evidence and I find that the Notice does not comply with the standards set out in section 52 of the Act as:

- 1) there is no effective date (the day when the tenant must move out of or vacate the site) on the Notice;
- 2) it is neither signed nor dated by the landlord; and
- 3) does not give the address of the rental unit for which the tenancy is being ended.

I find that these omissions invalidate the Notice.

Therefore, I dismiss the landlords’ application to end this tenancy and obtain an Order of Possession on the basis of the Notice, without leave to reapply.

The Notice is cancelled and of no force or effect.

For the same reasons identified in the Notice the landlords' application for a Monetary Order for unpaid rent is dismissed, with leave to reapply.

Conclusion

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

The Notice 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 for unpaid rent, 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: November 16, 2018

Residential Tenancy Branch