



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM – DR, FFL

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act (Act)* and dealt with an Application for Dispute Resolution by the landlords for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlords submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 23, 2018 the landlord served each tenant with the Notice of Direct Request Proceeding via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed. The landlords provided an undated Canada Post receipt outlining the tracking numbers for each tenant, these tracking numbers are listed on the coversheet of this decision.

Based on the written submissions of the landlord, I find that each tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent and recovery of the filing fee, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlords submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on November 1, 2017 for a one year and one day fixed term tenancy beginning on November 15, 2017 for the monthly rent of \$1,800.00 due on the 1st of each month and a security deposit of \$900.00 and a pet damage deposit of \$400.00 were paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 5, 2018 with an effective vacancy date of November 20, 2018 due to \$2,800.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of August, September, October and November 2018 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent registered mail on November 5, 2018.

The landlords submitted the exact same undated Canada Post receipts with registered mail tracking numbers as they submitted for the service of the Notice of Direct Request proceeding documents as listed on the coversheet of this decision. The landlords provided another single Canada Post receipt with a tracking number on it but they have not indicated who that registered mail was sent to. In addition, while the landlords have provided Canada Post payment receipts they have covered up the actual date of payment. So, it is unclear when any of these registered mail services were purchased.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and the landlords have failed to provide sufficient evidence to establish that they served the tenants with the Notice to End Tenancy.

As the landlord has provided the same tracking numbers for the service of both the Notice of Direct Request proceeding and the Notice to End Tenancy and another tracking number that is undated and unaddressed, I find the landlords have failed to provide any evidence at all to establish that they served the tenants with a Notice to End Tenancy at all.

Conclusion

Based on the above, I dismiss the landlords' Application for Dispute Resolution in its entirety, 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: December 03, 2018

Residential Tenancy Branch