



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 landlord for an order of possession and a monetary order due to unpaid rent. A participatory hearing was not convened.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on November 27, 2018 the landlord served the tenant with the Notice of Direct Request Proceeding personally. The Proof of Service was signed by the tenant acknowledging receipt of the Notice of Proceeding.

Based on the written submissions of the landlord, I find that the 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 landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent and to recover the filing fee for the cost of this Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of two pages of a document which was signed by the parties on September 30, 2017 for a tenancy beginning on October 1, 2017 for the monthly rent of \$920.00 due on the 1st of each month. It is not clear from this document

as to whether or not this tenancy started as a fixed term tenancy or not as it lists the tenancy would be for a fixed term of 6 months with the end day 6 months **prior** to the start date of the tenancy. It is also not clear if this document is a tenancy agreement or not but the titles of the files uploaded ResidentialTenancyAgreementpg.1 and ResidentialTenancyAgreementpg.4, in addition both the top and bottom of each of these pages is cut off;

- A copy of a Notice of Rent Increase issued on July 25, 2018 increasing the rent to \$956.00 effective November 1, 2018;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 2, 2018 with an effective vacancy date of November 15, 2018 due to \$956.00 in unpaid rent; and
- Two copies of page two of a Proof of Service – Notice to End Tenancy that indicate that the service of the Notice to End Tenancy was witnessed by a third party, however the first page with the landlord's declaration of how it was served was not provided.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of November 2018 The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

Direct Request proceedings are conducted when a landlord issues a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and the tenant(s) has not filed an Application for Dispute Resolution seeking to cancel the Notice within 5 days of receiving the Notice. The proceeding is conducted *ex parte* and based solely on the paperwork provided by the applicant landlord.

Because the hearing is conducted without the benefit of having a participatory hearing in which I might question either of the parties if something is unclear in the paperwork, all documents submitted must be complete and clear.

As the landlord has submitted into evidence only a partial document that appears to be a tenancy agreement but not confirmed as both the top and bottom of each of the pages of the partial document and the landlord has provided an incomplete Proof of Service – Notice to End Tenancy, I find the landlord has failed to provide sufficient evidence to have this claim adjudicated through the Direct Request Process.

Conclusion

Based on the above, I dismiss the landlord's Application for Dispute Resolution in its entirety with leave to reapply either through the participatory hearing process or Direct Request process, if they have complete copies of all of the documents required.

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