



Dispute Resolution Services

Page: 1

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 30, 2018 the landlord served the tenant with the Notice of Direct Request Proceeding personally. I note that despite asking for the Proof of Service asking for the time the documents were served the landlord did not indicate the time. However, the tenant acknowledged receipt of the documents by signing the Proof of Service document.

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 a residential tenancy agreement which was signed by the parties on May 1, 2018 for a one year and one day fixed term tenancy beginning on May 15, 2018 for the monthly rent of \$1,775.00 due on the 15th of each month and a security deposit of \$887.50 was paid; and
- A copy of only the first page of a two-page 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 20, 2018 with an effective vacancy date of November 30, 2018 due to \$1,775.00 in unpaid rent and \$70.00 for utilities that the landlord provided a demand letter on November 15, 2018.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of November 2018 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on November 20, 2018. Again the landlord did not indicate the time the Notice to End Tenancy was served but the tenant did acknowledge receipt of the Notice by signing the Proof of Service Notice to End Tenancy document.

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 noted above the landlord did not record the time of day that they served the tenant with the Notice of Dispute Resolution package or the Notice to End Tenancy. While I am still able to accept service of these documents because the tenant has acknowledged receipt of them, the landlords' Application does not fail on this issue.

However, the landlord only submitted a copy of the first page of a two-page Notice to End Tenancy for Unpaid Rent. As such, it is not clear as to whether or not the landlord

served the tenant with the second page of the two-page Notice. As a result, I cannot determine if the tenant was informed of all of their rights to dispute the Notice.

Therefore, I find that due to the way the landlord submitted evidence this Application is not suitable to be adjudicated through the Direct Request process.

Conclusion

Based on the above, I dismiss this Application for Dispute Resolution with leave to reapply either through a participatory hearing process or by Direct Request should the landlord be able to submit all the required documentation fully.

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 07, 2018

Residential Tenancy Branch