



# 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 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 and a witness statement letter which declare that on December 14, 2018, the landlords personally served the tenants the Notices of Direct Request Proceeding. Based on the written submissions of the landlords and in accordance with section 89 of the *Act*, I find that the tenants have been duly served with the Direct Request Proceeding documents on December 14, 2018.

### Issue(s) 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*?

Are the landlords entitled to recover the filing fee for this application pursuant to section 72 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 landlords and the tenants on May 17, 2018, indicating a monthly rent of \$800.00, due on the first day of each month for a tenancy commencing on May 15, 2018;

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 3, 2018, for \$800.00 in unpaid rent. The 10 Day Notice provides that the tenants 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 December 13, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenants at 4:00 pm on December 3, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### Analysis

Section 52 of the *Act* provides the following requirements regarding the form and content of notices 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,...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 is not signed by the landlord. I further find that this omission invalidates the 10 Day Notice as the landlords have not complied with the provisions of section 52 of the *Act*.

On December 18, 2018, the landlords submitted a signed copy of the 10 Day Notice along with their Proof of Service of the Notice of Direct Request Proceeding; however, I find it likely that the unsigned copy was the version served to the tenants on December 3, 2018.

Furthermore, I note that the address from where the tenants must move out of or vacate is not the correct address as established in the tenancy agreement. I find that this discrepancy also invalidates the 10 Day Notice.

Therefore, I dismiss the landlords' application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice dated December 3, 2018, without leave to reapply.

The 10 Day Notice dated December 3, 2018 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice the landlords' application for a Monetary Order for unpaid rent is dismissed, with leave to reapply.

As the landlords were not successful in this application, I find that the landlords are not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

The landlords' application for an Order of Possession on the basis of the 10 Day Notice dated December 3, 2018, is dismissed, without leave to reapply.

The 10 Day Notice dated December 3, 2018, 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.

I dismiss the landlords' application to recover the filing fee paid for this application, 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 19, 2018

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Residential Tenancy Branch