



# 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 landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on March 18, 2019, the landlord sent each of the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the Tracking Numbers to confirm these mailings. Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenants are deemed to have been served with the Direct Request Proceeding documents on March 23, 2019, the fifth day after their registered mailing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

## Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on February 14, 2019, indicating a monthly rent of \$2,700.00, due on the first day of each month for a tenancy commencing on February 15, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the February 10 Day Notice) dated February 21, 2019, for \$2,700.00 in unpaid rent. The February 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 March 3, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the February 10 Day Notice was personally served to the tenant at 3:00 (a.m. or p.m. not indicated) on February 21, 2019;
- A copy of a second 10 Day Notice to End Tenancy for Unpaid Rent (the March 10 Day Notice) dated March 1, 2019, for \$2,700.00 in unpaid rent. The February 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 March 3, 2019; 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 February 10 Day Notice is not signed by the landlord. I further find that this omission invalidates the February 10 Day Notice as the landlord has not complied with the provisions of section 52 of the Act.

Therefore, I dismiss the landlord's application to end this tenancy and obtain an Order of Possession on the basis of the 10 Day Notice dated February 21, 2019, without leave to reapply.

The 10 Day Notice dated February 21, 2019 is cancelled and of no force or effect.

I also find that the landlord has not provided a Proof of Service Notice to End Tenancy form to establish service of the March 10 Day Notice to the tenant. For this reason, the landlord's application for an Order of Possession on the basis of the 10 Day Notice dated March 1, 2019 is dismissed with leave to reapply.

For these same reasons, the landlord's application for a Monetary Order for unpaid rent is dismissed, with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice dated February 21, 2019, is dismissed, without leave to reapply.

The 10 Day Notice dated February 21, 2019, is cancelled and of no force or effect.

The landlord's application for an Order of Possession on the basis of the 10 Day Notice dated March 1, 2019, is dismissed, with leave to reapply.

I dismiss the landlord's application for a Monetary Order for unpaid rent, with leave to reapply.

I dismiss the landlord's 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: March 25, 2019

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Residential Tenancy Branch