



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR

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 for the rental unit based on unpaid rent and a monetary order for unpaid rent.

The landlord submitted copies of two signed Proofs of Service of the Notice of Direct Request Proceeding which declares that on April 26, 2019, the landlord sent the tenants the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided copies of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. 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 May 1, 2019, the fifth day after their registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession due to 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*?

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 10, 2017, indicating a monthly rent of \$2480.00, due on

the first day of the rental period which falls on the “see addendum” day. The tenancy agreement does not specify on which day of the month the rent is due;

- An addendum attached to the tenancy agreement, which states, among other things, that the “Rental will be paid every three months in advance by post-dated cheques”;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) dated April 4, 2019, for \$300.00 in unpaid rent. The Notice provides that the tenant 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 April 14, 2019;
- A copy of a signed Proof of Service of the Notice to End Tenancy form which indicates that the Notice was served to the tenants by registered mail on April 4, 2019; and
- A Direct Request Worksheet showing the rent owing for April 2019, and the amount paid for that month.

Analysis

I have reviewed all documentary evidence of the landlord.

The Direct Request process is a mechanism that allows the landlord to apply for an expedited decision, and as such, the landlord must follow and submit documentation exactly as the Act prescribes. There can be no omissions or deficiencies with items being left open to interpretation or inference

Section 13(2)(f)(v) of the Act requires that tenancy agreements list the day in the rental period upon which rent is due. In this case, the tenancy agreement does not list that day, and in turn, I find there is no proof by the landlord that the rent was due on April 1, 2019, invalidating the Notice.

I therefore find that the landlord has not met the requirements of the Act by this deficiency in the tenancy agreement and therefore find this application cannot proceed under the Direct Request process.

I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent which is the subject of this application is without force or effect.

Conclusion

The landlord's application under the Direct Request process for an order of possession is dismissed.

The landlord's application for a monetary order for unpaid rent is dismissed with leave to reapply.

The landlord may wish to submit a new application through the normal dispute resolution process which includes a participatory hearing to explain any discrepancies in their documentary evidence as discussed in this Decision.

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: May 3, 2019

Residential Tenancy Branch