



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-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 based on unpaid rent.

The landlord submitted two signed Proofs of Service of the Notices of Direct Request Proceeding which declare that on May 28, 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 June 2, 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*?

Background and Evidence

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on January 27, 2019, indicating a monthly rent of \$1,800.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated May 17, 2019, for \$1,800.00 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;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants' door at 2:17 pm on May 17, 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:

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 there is no effective date (the day when the tenants must move out of or vacate the site) on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice as the landlord has not complied with the provisions of section 52 of the *Act*. It is possible to amend an incorrect date on the 10 Day Notice, but the *Act* does not allow an adjudicator to input a date where none is written.

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 May 17, 2019, without leave to reapply. The 10 Day Notice dated May 17, 2019, is cancelled and of no force or effect.

Conclusion

The landlord's application for an Order of Possession on the basis of the 10 Day Notice dated May 17, 2019, is dismissed, without leave to reapply.

The 10 Day Notice dated May 17, 2019, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

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: June 05, 2019

Residential Tenancy Branch