



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55.

The landlord, E.D. attended the hearing via conference call and provided undisputed testimony and as an agent for his spouse, T.M (the landlords). The tenant did not attend or submit any documentary evidence. The landlords stated that the tenant was served with the notice of hearing package via Canada Post Registered Mail on June 16, 2019 and has submitted a copy of the proof of service document, a photograph of the envelope which includes the Canada Post Customer Receipt Tracking label. The landlords stated that a review of the online tracking system shows that the tenant accepted and signed for the package on June 18, 2019.

I accept the undisputed evidence of the landlords and find that the tenant was properly served as per sections 88 and 89 of the Act. Although the tenant did not attend, the tenant is deemed served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on February 1, 2018 on a fixed term tenancy ending on February 1, 2019 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated February 1, 2018. The monthly rent is \$1,200.00 payable on the 1st day of each month. A security deposit of \$600.00 was paid.

The landlord seeks an order of possession for unpaid rent.

The landlords' state that the tenant was served with a 10 Day Notice dated May 22, 2019 by having it "Taped on the main and only entrance (inside door)" on May 22, 2019. The 10 Day Notice states that the tenant failed to pay rent of \$1,200.00 that was due on May 1, 2019. The 10 Day Notice does not provide an effective end of tenancy date.

The landlord clarified that he had made an inadvertent error by not filling in the effective end of tenancy date on the 10 Day Notice dated May 22, 2019.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

Section 52 of the Act speaks to form and content of a notice to end tenancy issued by a landlord. It states in part,

Form and content of notice 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,**
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,

(d.1)for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
(e)when given by a landlord, be in the approved form.

In this case, I accept the undisputed evidence of the landlord and find that the 10 Day Notice dated May 22, 2019 is deficient and is not enforceable as it does not comply with section 52 of the Act. The 10 Day Notice dated May 22, 2019 is cancelled. The landlords' application is dismissed.

Conclusion

The landlord's application is dismissed 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: July 26, 2019

Residential Tenancy Branch