



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

OPR – DR    OPUM – DR

### Introduction

This application has been made via the Direct Request Proceeding; an ex parte process pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*.)

The landlord has applied requesting an order of possession and monetary order based on unpaid rent.

The landlord submitted a proof of service document which declares that on September 27, 2019 the landlord served each tenant notice of the direct request proceeding by registered mail sent to the rental unit address. The landlord provided copies of Canada Post receipts and tracking numbers as confirmation of service to each tenant.

Based on the written submissions of the landlord I find that each respondent has been served the proceeding documents in accordance with section 89(2) (b) of the *Act*.

In accordance with section 90(a) of the *Act* I find that the tenants are deemed served with notice of the direct request proceeding effective the fifth day after mailing; October 02, 2019.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession based on unpaid rent?

Is the landlord entitled to a monetary order based on unpaid rent?

### Background and Evidence

The landlord submitted the following documents:

- A copy of a residential tenancy agreement which was signed by the landlord and one individual, as tenant. The agreement does not clearly identify the person who has signed the document as tenant, as the signature is illegible. The tenancy agreement indicates that one of the three (3) tenant respondents is responsible for collecting rent on behalf of the landlord. It appears that two of the respondents may be occupants, rather than tenants; and

- A copy of a 10 day Notice to end tenancy for unpaid rent or utilities (the Notice) issued on September 15, 2019. The Notice indicated that the Notice would be automatically cancelled if the landlord received \$2,800.00 within five (5) days after the tenants were assumed to have received the Notice. The Notice also indicated that the tenants were presumed to have accepted that the tenancy was ending and that the tenants must move out of the rental unit by the date set out in the Notice unless the tenants filed an application for dispute resolution within five (5) days. The landlord has not completed the section of the Notice that provides the effective date of the Notice.

### Analysis

Based on the evidence before me I find that the tenancy agreement fails to provide evidence that the three (3) named respondents have signed the agreement. The one individual who has signed the agreement is not clearly identified. Further, it appears that two (2) of the three (3) named respondents may be occupants, rather than tenants.

I note that the Notice supplied as evidence does not include an effective date, as required by section 52(c) of the Act.

The Direct Request Proceeding is an ex parte process where the tenant is not provided with an opportunity to attend a hearing or make a rebuttal to the claim. The onus is on the landlord applicant to present evidence that does not lend itself to ambiguity or give rise to issues that may require further clarification.

Therefore, in the absence of a tenancy agreement that names the three (3) respondents and that is signed by all respondents I find that the application is dismissed with leave to reapply.

I note that pursuant to section 68 of the Act provides an arbitrator has the authority to amend a Notice to comply with the Act; however that is at the discretion of the arbitrator. The landlord is at liberty to issue a Notice that includes an effective date.

### Conclusion

The application is dismissed with 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: October 16, 2019

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Residential Tenancy Branch