



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 Landlords for an order of possession and a monetary order based on unpaid rent, and an order granting recovery of the filing fee.

The Landlords submitted signed Proof of Service - Notice of Direct Request Proceeding documents which declare that on December 8, 2020, the Landlords served each of the Tenants with the Notice of Direct Request Proceeding and supporting documents by registered mail. The Landlords provided copies of the Canada Post customer receipts containing the Tracking Numbers to confirm this mailing. Based on the written submissions of the Landlords and in accordance with sections 89 and 90 of the *Act*, I find the Tenants are deemed to have received these documents on December 13, 2020, five days after they were mailed.

Issues to be Decided

1. Are the Landlords entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. Are the Landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlords submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the Landlords and the Tenants on February 15, 2019, indicating a monthly rent of \$1,350.00, due on the 15th 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 or Utilities dated November 21, 2020 (the “10 Day Notice”), for \$2,350.00 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 on the stated effective vacancy date, which was not provided on the 10 Day Notice;

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,*
- ...*
- (e) when given by a landlord, be in the approved form.*

[Reproduced as written.]

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 rental unit) on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice as the Landlords have not complied with the provisions of section 52(c) 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, the Landlords' application for an order of possession based on the 10 Day Notice dated November 21, 2020 is dismissed without leave to reapply.

The 10 Day Notice dated November 21, 2020 is cancelled and of no force or effect.

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

Conclusion

The Landlords' application for an order of possession based on the 10 Day Notice dated November 21, 2020 is dismissed without leave to reapply.

The 10 Day Notice dated November 21, 2020 is cancelled and of no force or effect. This tenancy will continue until otherwise ended in accordance with the *Act*.

The Landlords' application for a monetary order for unpaid rent 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: December 29, 2020

Residential Tenancy Branch