



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, OPRM-DR, FFL

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 and a Monetary Order.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on February 25, 2021, 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 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 March 2, 2021, 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*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 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 landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and Tenant A.P. on March 13, 2019, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on March 15, 2019
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice for Tenant A.P.) dated February 5, 2021, for \$1,400.00 in unpaid rent. The 10 Day Notice for Tenant A.P. provides that Tenant A.P. 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 February 19, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice for Tenant A.P. was placed in Tenant A.P.'s mailbox or mail slot at 2:07 pm on February 5, 2021
- A Direct Request Worksheet for Tenant A.P. showing the rent owing and paid during the relevant portion of this tenancy
- A copy of a residential tenancy agreement which was signed by the landlord and Tenant M.L. on March 20, 2019, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on March 15, 2019
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice for Tenant M.L.) dated February 5, 2021, for \$1,400.00 in unpaid rent. The 10 Day Notice for Tenant M.L. provides that Tenant M.L. 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 February 19, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice for Tenant M.L. was placed in Tenant M.L.'s mailbox or mail slot at 2:07 pm on February 5, 2021
- A Direct Request Worksheet for Tenant M.L. 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:

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

I have reviewed all documentary evidence and I find that the 10 Day Notice for Tenant A.P. is not signed by the landlord. I also find that the 10 Day Notice for Tenant M.L. is not signed by the landlord.

I further find that these omissions invalidate the 10 Day Notices as the landlord has not complied with the provisions of section 52 of the Act.

Therefore, I dismiss the landlord's application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice for Tenant A.P dated February 5, 2021, without leave to reapply.

The 10 Day Notice for Tenant A.P. dated February 5, 2021 is cancelled and of no force or effect.

I dismiss the landlord's application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice for Tenant M.L. dated February 5, 2021, without leave to reapply.

The 10 Day Notice for Tenant M.L. dated February 5, 2021 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notices, the landlord's application for a Monetary Order for unpaid rent is dismissed, with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The landlord's application for an Order of Possession based on the 10 Day Notice for Tenant A.P. dated February 5, 2021, is dismissed, without leave to reapply.

The 10 Day Notice for Tenant A.P. dated February 5, 2021, is cancelled and of no force or effect.

The landlord's application for an Order of Possession based on the 10 Day Notice for Tenant M.L. dated February 5, 2021, is dismissed, without leave to reapply.

The 10 Day Notice for Tenant M.L. dated February 5, 2021, is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

I dismiss the landlord's application for a Monetary Order for unpaid rent, with leave to reapply.

I dismiss the landlord's application to recover the filing fee paid for this application, 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: March 11, 2021

Residential Tenancy Branch