



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

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 filed by the Landlord for an order of possession based on unpaid rent.

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

Section 52 of the *Act* confirms that to be effective a notice to end tenancy given by a landlord must be in the approved form. The language in the *Act* is mandatory. In this case, the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities submitted into evidence and relied upon by the Landlord (the “10 Day Notice”) is in a 2-page form that was no longer approved or in use at the time it was issued. The current form is a 3-page document and is available on the Residential Tenancy Branch website.

In light of the above, I order that the 10 Day Notice is cancelled and is of no force or effect. As a result, the Landlord’s request for an order of possession based on the 10 Day Notice is dismissed without leave to reapply.

I also note potential issues with respect to service of the Notice of Dispute Resolution Proceeding on the Tenant by giving a copy to S.L., and the differing names used for the Landlord in the application and the tenancy agreement. However, as my findings with respect to the 10 Day Notice are determinative of the issues before me, it has not been necessary to make any findings with respect to these potential issues.

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: April 7, 2021

Residential Tenancy Branch