



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 May 26, 2021, the landlord sent the each of tenants the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipts containing the tracking numbers to confirm these mailings.

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 indicating a monthly rent of \$1,700.00, due on the first day of each month

- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

Analysis

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 59 of the *Act* establishes that an Application for Dispute Resolution must “include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings.”

Policy Guideline #39 on Direct Requests provides the following information:

When making an application for dispute resolution through the direct request process, the landlord must provide copies of:

- The written tenancy agreement.
- Documents showing changes to the tenancy agreement or tenancy, such as rent increases, or changes to parties or their agents.
- The Direct Request Worksheet (form RTB-46) setting out the amount of rent or utilities owing which may be accompanied by supporting documents such as a rent ledger or receipt book.
- **The 10 Day Notice to End Tenancy** for Unpaid Rent or Utilities (this is often considered proof that the tenant did not pay rent).
- Proof that the landlord served the tenant with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and, if applicable, the Written Demand to Pay Utilities.

On their Application for Dispute Resolution by Direct Request, the landlord has indicated the tenant has not paid rent for May 2021. The Applicant indicates the landlord is requesting an Order of Possession based on a 10 Day Notice issued on May 3, 2021.

However, I find the landlord has not submitted a copy of the 10 Day Notice issued to the tenant for May's rent. I further find that I am not able to consider the landlord's Application for Dispute Resolution without this document which forms a part of the Application.

For this reason, the landlord's application for an Order of Possession and 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

I dismiss the landlord's application for an Order of Possession and 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: June 04, 2021

Residential Tenancy Branch