



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 filed by the Landlord for an order of possession and a monetary order for unpaid rent and to recover the filing fee.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that the Notice of Dispute Resolution Proceeding and supporting documents were served on the Tenant in person on May 16, 2021. Service in this manner was witnessed by A.L. and the Tenant signed the Proof of Service Notice of Direct Request Proceeding to confirm receipt. I find these documents were served on and received by the Tenant on May 16, 2021.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?
2. Is the Landlord entitled to a monetary order for unpaid rent pursuant to sections 46 and 67 of the *Act*?
3. Is the Landlord entitled to recover the filing fee 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 signed residential tenancy agreement, indicating a monthly rent in the amount of \$1,200.00 due on the first day of each month, for a tenancy commencing on October 1, 2020;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 14, 2021 for \$2,400.00 in unpaid rent (the “10 Day Notice”). The 10 Day Notice provides that the Tenant 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 April 24, 2021;
- A copy of signed Proof of Service Notice to End Tenancy documents which indicate that the 10 Day Notice was served on the Tenant by attaching a copy to the Tenant’s door or other conspicuous place on April 14, 2021, which service was witnessed by A.L.; and
- A copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

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.

Policy Guideline #39 provides direction to a landlord which makes an application for dispute resolution by Direct Request. It confirms that a landlord must provide documentation including those showing changes to the tenancy agreement or tenancy, such as rent increases, or changes to parties or their agents.

I have reviewed the Landlord's documentary evidence and I find that the name of the landlord that appears on the tenancy agreement submitted (a numbered company) does not match the name of the Landlord that appears on the application and the other documents submitted in support of the application (also a numbered company).

Further, I find there is insufficient evidence before me to conclude the named Landlord is the owner of the rental property or is otherwise entitled to any orders that may result from this application.

As this is an *ex parte* proceeding that does not allow for any clarification of the facts, I must be satisfied with the documentation presented. The discrepancy in the landlord's name raises a question that cannot be addressed in a Direct Request Proceeding.

Considering the above, I order that the Landlord's requests for an order of possession and a monetary order for unpaid rent are dismissed with leave to reapply.

As the Landlord has not been successful, I order that the Landlord's request to recover the filing fee is dismissed without leave to reapply.

Conclusion

The Landlord's requests for an order of possession and a monetary order for unpaid rent are dismissed with leave to reapply.

The Landlord's request to recover the filing fee is dismissed 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 8, 2021

Residential Tenancy Branch