



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR, MNR-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 to obtain an order of possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the Landlord on June 15, 2021.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 21, 2021, the Landlord sent the Tenant 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 Receipt containing the tracking number to confirm that they served the Tenant.

Based on the written submissions and evidence of the Landlord and in accordance with sections 89(1) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on July 21, 2021 and are deemed to have been received by the Tenant on July 26, 2021, the fifth day after they were mailed.

Issues 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

The Landlord submitted the following relevant evidentiary material:

- a copy of a residential tenancy agreement which was signed by the Landlord and the Tenant on November 29, 2019, indicating a monthly rent of \$2,300.00, for a tenancy commencing on December 1, 2019;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated May 31, 2021, for \$4,600.00 in unpaid rent. The 10 Day Notice was not signed by the Landlord;
- a copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the Tenant by registered mail on May 31, 2021. The Landlord provided a copy of the Canada Post Customer Receipt with the tracking number to confirm this service; and;
- a copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

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 is not signed by the Landlord. I further find that this omission invalidates the 10 Day Notice 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 dated May 31, 2021, without leave to reapply.

The 10 Day Notice dated May 31, 2021 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice, 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 dated May 31, 2021, is dismissed, without leave to reapply.

The 10 Day Notice dated May 31, 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: August 05, 2021

Residential Tenancy Branch