



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Brown Bros Agencies Ltd. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for an order of possession under a 10-Day Notice to End Tenancy for Unpaid Rent (the Notice), pursuant to sections 46 and 55.

I left the teleconference connection open until 9:44 A.M. to enable the tenant to call into this teleconference hearing scheduled for 9:30 A.M. The tenant did not attend the hearing. The landlord, represented by property manager EH (the landlord), attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

At the outset of the hearing the attending party affirmed she understands it is prohibited to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

I accept the landlord's testimony that the tenant was served with the application and the evidence by registered mail on August 11, 2021 and the interim decision and notice of adjourned hearing on August 31, 2021, in accordance with section 89(2)(b) of the Act (the tracking number is recorded on the cover of this decision).

Section 90 of the Act provides that a document served in accordance with Section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail the tenant is deemed to have received the application and the evidence on August 16, 2021 and the interim decision and notice of adjourned hearing on September 05, 2021, in accordance with section 90 (a) of the Act.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondent.

Issue to be Decided

Is the landlord entitled to an order of possession under the Notice?

Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending party, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below. I explained rule 7.4 to the attending party; it is the landlord's obligation to present the evidence to substantiate the application.

The landlord affirmed the tenancy started on November 01, 2020. Monthly rent of \$985.00 is due on the first day of the month. The tenancy agreement was submitted into evidence. It indicates the rental unit is located at 21\*\*\*\*.

The landlord affirmed the tenant paid rent in the amount of \$228.00 in April and did not pay rent in May, June and July and was in rental arrears in the amount of \$3,712.00 on July 01, 2021.

The landlord attached the Notice to the tenant's door on July 14, 2021. A witnessed proof of service (RTB form 34) indicating the landlord served the Notice by attaching it to the tenant's door on July 14, 2021 was submitted into evidence.

A copy of the July 14, 2021 Notice was submitted into evidence. It indicates the tenant did not pay rent in the amount of \$3,712.00 due on July 01, 2021. The effective date is July 27, 2021. It indicates the tenant's address is 31\*\*\*\*\* and that the tenant must move out of the rental unit located at 21\*\*\*\*\*.

The landlord affirmed the tenant has not paid rent and continues to occupy the rental unit.

Analysis

Based on the landlord's convincing testimony and the proof of service (RTB form 34), I find the landlord served the Notice by attaching it to the tenant's front door on July 14, 2021, in accordance with section 88(g) of the Act. The tenant is deemed served the Notice on July 17, 2021, per section 90 (c) of the Act.

Section 52 of the Act states:

**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,

(d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,

(d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and

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

(emphasis added)

I find the Notice does not comply with section 52(b), as it indicates different street numbers for the tenant's address and the address from which the tenant must vacate. The landlord confirmed the correct tenant's address is 21\*\*\*\* and the notice indicates the tenant's address is 31\*\*\*\*.

As such, I find the Notice does not comply with section 52 of the Act, it is not effective, and I cannot issue an order of possession.

### Conclusion

I dismiss without leave to reapply the landlord's application.

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: October 19, 2021

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Residential Tenancy Branch