



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 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 applicant on January 24, 2022.

The applicant submitted a signed Proof of Service Notice to End Tenancy form which declares that on February 8, 2022, the applicant served the tenant the Notice of Dispute Resolution Proceeding - Direct Request in person. The applicant had the tenant and a witness sign the Proof of Service Notice to End Tenancy form to confirm personal service.

Based on the written submissions of the applicant and in accordance with section 89 of the *Act*, I find that the Direct Request Proceeding documents were duly served to the tenant on February 8, 2022.

Issue(s) to be Decided

Is the applicant entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the applicant entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the applicant entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The applicant submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which names a landlord who is not the applicant and was signed by the tenant on June 12, 2020, indicating a monthly rent of \$1,150.00, due on the first day of each month for a tenancy commencing on June 15, 2020
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 2, 2021, for \$1,150.00 in unpaid rent. 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 December 12, 2021
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 4:27 pm on December 2, 2021
- 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 applicant 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 applicant 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.

I have reviewed all documentary evidence and I find that the landlord's name on the tenancy agreement does not match the landlord's name on the Application for Dispute Resolution.

I note that the applicant signed the tenancy agreement. While I accept that the applicant had signing authority for the business landlord, I find there is no evidence or documentation showing that the applicant is the owner of the rental property or is otherwise entitled to have orders issued in their name.

As this is an *ex parte* proceeding that does not allow for any clarification of the facts, I have to 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.

For this reason, the applicant's request for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

As the applicant was not successful in this application, I find that the applicant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the applicant's request for an Order of Possession and a Monetary Order for unpaid rent with leave to reapply.

I dismiss the applicant's request 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: February 24, 2022

Residential Tenancy Branch