



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1017852 BC LTD
and [tenant name suppressed to protect privacy]

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 March 3, 2022.

The applicant submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on March 4, 2022, the applicant sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The applicant provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm this mailing.

Based on the written submissions of the applicant and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on March 4, 2022 and are deemed to have been received by the tenant on March 9, 2022, the fifth day after their registered mailing.

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

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 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 September 8, 2020, indicating a monthly rent of \$1,300.00, 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 (the January 10 Day Notice) dated January 7, 2022, for \$1,319.00 in unpaid rent. The January 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 January 22, 2022
- A copy of a Canada Post Customer Receipt containing the tracking number to confirm the January 10 Day Notice was sent to the tenant by registered mail on January 7, 2022
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the February 10 Day Notice) dated March 2, 2022, for \$2,638.00 in unpaid rent. The February 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 February 19, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the February 10 Day Notice was sent to the tenant by registered mail on February 4, 2022
- A copy of a Canada Post Customer Receipt containing the tracking number to confirm the February 10 Day Notice was sent to the tenant by registered mail on February 4, 2022
- 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.

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 there is no address, from where the tenant must move out or vacate, on the February 10 Day Notice. I find that this omission invalidates the February 10 Day Notice as the applicant has not complied with the provisions of section 52 of the *Act*.

Therefore, I dismiss the applicant's request to end this tenancy and obtain an Order of Possession based on the February 10 Day Notice dated March 2, 2022, without leave to reapply.

The February 10 Day Notice dated March 2, 2022 is cancelled and of no force or effect.

I also find that the landlord's name on the tenancy agreement does not match the landlord's name on the Application for Dispute Resolution. There is also no evidence or documentation showing that the applicant 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 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, I dismiss the applicant's request to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated January 7, 2022, with leave to reapply.

For the same reasons identified above, the applicant's request for 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

The applicant's request for an Order of Possession based on the February 10 Day Notice dated March 2, 2022, is dismissed without leave to reapply.

The February 10 Day Notice dated March 2, 2022 is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the *Act*.

I dismiss the applicant's request for an Order of Possession based on the 10 Day Notice dated January 7, 2022 with leave to reapply.

I dismiss the applicant's request for 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: March 25, 2022

Residential Tenancy Branch