



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR**

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 landlords to obtain an Order of Possession based on unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlords on March 20, 2022.

The landlords submitted a copy of a Proof of Service Notice of Direct Request Proceeding form which declares that on March 23, 2022, the landlords sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlords provided a copy of the Canada Post Customer Receipt containing the tracking number to confirm they served the tenant.

Based on the written submissions and evidence of the landlords and in accordance with sections 89(1) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on March 23, 2022 and are deemed to have been received by the tenant on March 28, 2022, the fifth day after they were mailed.

Issue to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 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 landlords submitted the following relevant evidentiary material:

- a copy of a residential tenancy agreement which names two landlords who are not the applicants and signed by the tenant on July 1, 2020, indicating a monthly rent of \$900.00, due on the first day of each month for a tenancy commencing on July 1, 2020;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated February 6, 2022, for \$1,800.00 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;
- 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 on February 6, 2022;
- a copy of a notary letter dated May 4, 2021 which confirms the applicants as new owners; 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:

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 effective date (the day when the tenant must move out of or vacate the site) on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice as the landlords have not complied with the provisions of section 52 of the *Act*. It is possible to amend an incorrect date on the 10 Day Notice, but the *Act* does not allow an adjudicator to input a date where none is written.

Therefore, I dismiss the landlords' application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated February 6, 2022, without leave to reapply.

The 10 Day Notice dated February 6, 2022, is cancelled and of no force or effect.

Conclusion

The landlords' application for an Order of Possession based on the 10 Day Notice dated February 6, 2022, is dismissed, without leave to reapply.

The 10 Day Notice dated February 6, 2022, is cancelled and of no force or effect.

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

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: April 14, 2022

Residential Tenancy Branch