



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Southwood Ventures Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-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 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 March 28, 2022.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on April 3, 2022, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord hand-wrote the Canada Post tracking number on the Proof of Service Notice of Direct Request Proceeding and provided a partial copy of the Canada Post Customer Receipt to confirm this mailing.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on April 3, 2022 and are deemed to have been received by the tenant on April 8, 2022, the fifth day after their registered mailing.

Issue(s) 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 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 landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by Person S.R. and the tenant on October 1, 2021, indicating a monthly rent of \$600.00, due on the first day of each month for a tenancy commencing on October 1, 2021
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 3, 2022, for \$853.52 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 March 30, 2022
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant's door at 1:00 pm on March 3, 2022
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

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 landlord named on the 10 Day Notice (Person R.R.) does not match either the business landlord named on the Application for Dispute Resolution, or the individual landlord who signed the tenancy agreement (Person S.H.-R.).

I also 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*.

I note the landlord submitted a second version of the 10 Day Notice on April 3, 2022 which was signed. However, I find I am not able to confirm which version of the 10 Day Notice was served to the tenant.

Furthermore, in a Direct Request, all supporting documents must be submitted at the time of filing the application. As such, I must make my determinations based on the original submissions provided on March 28, 2022. The 10 Day Notice submitted on March 28, 2022 was not signed by the landlord, and does not comply with 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 March 3, 2022, without leave to reapply.

The 10 Day Notice dated March 3, 2022 is cancelled and of no force or effect.

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 March 3, 2022, is dismissed, without leave to reapply.

The 10 Day Notice dated March 3, 2022, 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 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: May 03, 2022

Residential Tenancy Branch