



Dispute Resolution Services

Page: 1

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 April 28, 2022.

The applicant submitted three signed Proof of Service Notice of Direct Request Proceeding forms which declare that on April 29, 2022, the applicant sent each 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 Receipts containing the tracking numbers to confirm these mailings.

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 April 29, 2022 and are deemed to have been received by the tenants on May 4, 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 landlords who are not the applicants and was signed by the tenants on February 23, 2020, indicating a monthly rent of \$3,500.00, due on the first day of each month for a tenancy commencing on March 1, 2020
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated April 4, 2022, for \$3,500.00 in unpaid rent. The 10 Day Notice provides that the tenants 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 April 15, 2022
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was served to the tenants in person at 6:30 pm on April 4, 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 10 Day Notice is not signed. I further find that this omission invalidates the 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 10 Day Notice dated April 4, 2022, without leave to reapply.

The 10 Day Notice dated April 4, 2022 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice, 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 10 Day Notice dated April 4, 2022, is dismissed, without leave to reapply.

The 10 Day Notice dated April 4, 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 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: May 27, 2022

Residential Tenancy Branch