



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. On February 8, 2022 the landlord applied for:

- an order of possession for the rental unit, having issued a 10 Day Notice to End Tenancy, dated January 23, 2022 (the 10 Day Notice); and
- a monetary order for unpaid rent.

The hearing began promptly and was attended by the landlord, but not the tenant. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; she was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord testified she served the Notice of Dispute Resolution Proceeding (NDRP) on the tenant by registered mail on an unknown date, but could not locate the receipt with the tracking number.

The landlord testified that after not seeing the tenant for a few days, and having received no response to phone calls to the tenant, the landlord called the police, asking them to check on the tenant, and to give her the NDRP. The landlord testified the police attended and gave the NDRP to the tenant on or around February 18, 2022. Based on the landlord's affirmed undisputed testimony, I find the NDRP sufficiently served on the tenant on February 18, 2022, in accordance with section 71 of the Act.

Issues to be Decided

- 1) Is the landlord entitled to an order of possession?
- 2) Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord confirmed the following particulars of the tenancy. It began around 2013; rent is \$600.00, due on the first of the month; and the tenant paid a security deposit of \$300.00, which the landlord still holds. The landlord testified there was no written tenancy agreement.

The landlord testified she served the 10 Day Notice on the tenant on January 24, 2022 by email, and confirmed that she and the tenant had a history of using email to communicate. When I asked the landlord if she had expected the tenant to attend the hearing, the landlord testified that the tenant had sent her an email on February 24, 2022 indicating that “Any further contact will be through [the tenant’s] attorney.”

As a copy of the 10 Day Notice was not submitted as evidence, I provided the landlord the opportunity to provide a copy, which she did, following the hearing.

Examining the 10 Day Notice submitted by the landlord, I find it is signed and dated, gives the address of the rental unit, states the effective date of the Notice, states the grounds for the Notice, and is in the approved form. I note that the street number listed as the rental address in the landlord’s application is different from the rental address listed on the 10 Day Notice, as recorded on the cover page of this decision.

The Notice indicates the tenancy is ending as the tenant has failed to pay rent in the amount of \$2,200.00 due on January 23, 2022.

Analysis

Based on the landlord’s affirmed undisputed testimony, and in accordance with section 71 of the Act, I find the 10 Day Notice sufficiently served on January 24, 2022, and deem it received by the tenant on January 27, 2022 in accordance with section 44 of the regulation.

Section 46(1) of the Act states a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Section 52(b) of the Act states that in order to be effective, a notice to end tenancy must be in writing and must give the address of the rental unit.

As the rental addresses listed on the application and the 10 Day Notice do not match, and there is no tenancy agreement submitted as evidence that could confirm the correct address for the rental unit, I cannot determine whether the 10 Day Notice is valid. Therefore, I cannot consider granting an order of possession or a monetary order for unpaid rent, as contemplated by section 55 of the Act.

The 10 Day Notice is cancelled, and the landlord's application is dismissed.

In closing, I bring the attention of the parties to section 13(1) of the Act, which provides that landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.

Conclusion

The landlord's application is dismissed; the tenancy will continue 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: June 1, 2022

Residential Tenancy Branch