



# 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 by the landlord 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 landlord on August 18, 2022.

The landlord submitted a copy of a Proof of Service Notice of Direct Request Proceeding form which declares that on August 21, 2022, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by e-mail. The landlord provided a copy of an unsigned RTB# 51 Address for Service form, and a copy of two screenshots of the e-mail sent with the Direct Request Proceeding documents attached to confirm this service.

### **Issues 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 monetary compensation for unpaid rent pursuant to section 67 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 an unsigned residential tenancy agreement, indicating a monthly rent of \$2,350.00, due on the seventh day of each month for a tenancy commencing on February 7, 2022;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated June 24, 2022, for \$3,200.00 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 or the tenancy would end on the stated effective vacancy date of July 4, 2022;
- a copy of an email with a 10 Day Notice attached sent to the tenant on May 21, 2022;
- a copy of two screen shots showing the landlord sent the 10 Day Notice to the tenant by text message on June 24, 2022 at 8:48pm; and;
- a copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

## Analysis

In this type of matter, the landlord must prove they served the tenant with the Notice of Dispute Resolution Proceeding – Direct Request and all documents in support of the application in accordance with section 89 of the *Act*.

Section 89 of the *Act* provides that a Notice of Dispute Resolution Proceeding - Direct Request may be served “*by any other means of service provided for in the regulations.*”

Section 43(2) of the *Residential Tenancy Regulation* provides that documents “*may be given to a person by emailing a copy to an email address **provided as an address for service by the person.***”

I find that the landlord has sent the Notice of Dispute Resolution Proceeding - Direct Request to the tenant by e-mail. The landlord submitted a copy of an RTB# 51 Address for Service form; however, I find this form is not signed by tenant, which is necessary to confirm the tenant agreed to receive documents by e-mail.

I find the landlord has not demonstrated that the tenant's e-mail address was provided for service of documents, as required by section 43(2) of the *Residential Tenancy Regulation*.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the tenant; however, I find a more impactful issue with the 10 Day Notice.

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 find that there is no address, from where the tenant must move out or vacate, on the 10 Day Notice. I find that this omission invalidates the 10 Day Notice as the landlord has not complied with the provisions of 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 June 24, 2022, without leave to reapply.

The 10 Day Notice dated June 24, 2022, is cancelled and of no force or effect.

For the same reason listed above, I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

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 June 24, 2022, is dismissed, without leave to reapply.

The 10 Day Notice dated June 24, 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 for a Monetary Order for unpaid rent with leave to reapply.

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: September 08, 2022

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Residential Tenancy Branch