



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR, MNR-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 landlord to obtain an Order of Possession and a Monetary Order based on unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on August 30, 2022.

The landlord submitted a copy of a Proof of Service Notice of Direct Request Proceeding form which declares that on September 16, 2022, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord 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 landlord and in accordance with sections 89(1) and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on September 16, 2022 and are deemed to have been received by the tenant on September 21, 2022, the fifth day after they were mailed.

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*?

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 the tenant on February 21, 2018, indicating a monthly rent of \$1,200.00, due on the first day of each month for a tenancy commencing on March 1, 2018;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated August 9, 2022, for \$6,000.00 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 August 28, 2022;
- a copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was served to the tenant by Canada Post’s Express Post mailing service on August 15, 2022. The landlord provided a copy of the Canada Post Customer Receipt containing the tracking number and a copy of the Canada Post mailing label to confirm this service;
- a copy of a letter from the landlord dated September 16, 2022 indicating that the rental unit is vacant and the tenant has moved out; and;
- a copy of a Direct Request Worksheet showing the rent owing during the relevant period.

Analysis

The landlord submitted a copy of a letter dated September 16, 2022 indicating that the rental unit is vacant and the tenant has moved out. The primary purpose of the landlord’s Direct Request Application is to obtain an Order of Possession based on unpaid rent. As the tenant has moved out of the rental unit, I find that the landlord no longer requires an Order of Possession. For this reason, the landlord’s application for an Order of Possession based on the 10 Day Notice dated August 9, 2022 is dismissed without leave to reapply.

I also note that monetary compensation in a Direct Request can only be considered when a landlord is successful in obtaining an Order of Possession for unpaid rent. The purpose of the Direct Request process is not to allow for a faster resolution of a purely monetary claim.

As no Order of Possession was issued to the landlord, I find I cannot award compensation. For this reason, the landlord's application for a Monetary Order is dismissed with leave to reapply.

Conclusion

I dismiss the landlord's application for an Order of Possession based on the 10 Day Notice dated August 9, 2022 without leave to reapply.

I dismiss the landlord's application for a Monetary Order for unpaid rent with 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: October 21, 2022

Residential Tenancy Branch