

DECISION

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 the landlord's Application for Dispute Resolution (Application) for:

- an Order of Possession based on unpaid rent pursuant to sections 46 and 55 of the Act
- a Monetary Order for unpaid rent pursuant to section 67 of the Act (\$1,680.00)

Service of Notice of Dispute Resolution Proceeding - Direct Request

The landlord submitted a signed Proof of Service Landlord's Notice of Direct Request Proceeding which declares that the respondent was served with the Notice of Dispute Resolution Proceeding - Direct Request (Proceeding Package) by registered mail. The landlord submitted a copy of a Canada Post Customer Receipt containing the tracking number to confirm this service.

Issue(s) to be decided

Is the landlord entitled to an Order of Possession based on unpaid rent?

Is the landlord entitled to a Monetary Order for unpaid rent? (\$1,680.00)

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 evidentiary material:

- A copy of a residential tenancy agreement which names a landlord who is not the applicant and a tenant who is not the respondent, indicating a monthly rent of \$1,680.00, for a tenancy commencing on July 15, 2022;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated October 5, 2022, for \$1,680.00 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 October 18, 2022;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the door of the rental unit at 10:30 am on October 5, 2022;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

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 which permits service by sending a copy by registered mail to the address at which the person resides or to a forwarding address provided by the tenant.

I find that the tenant's name and address indicated on the Proof of Service Notice of Direct Request Proceeding form and the Canada Post Customer Receipt are not the tenant's name and rental address established in the tenancy agreement.

The landlord has indicated that the respondent now resides at this alternative address. However, I find there is no documentation or other evidence to confirm the respondent can receive mail at the address where the Proceeding Package was sent.

I find I am not able to confirm service of the Notice of Dispute Resolution Proceeding - Direct Request to the respondent, which is a requirement of the Direct Request process.

For this reason, the landlord's application for an Order of Possession and a Monetary Order for unpaid rent is dismissed with leave to reapply.

Conclusion

The landlord's application for an Order of Possession based on unpaid rent pursuant to sections 46 and 55 of the Act is dismissed, with leave to reapply.

The landlord's application for a Monetary Order for unpaid rent pursuant to section 67 of the Act is dismissed, 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: December 5, 2022

Residential Tenancy Branch