



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 for an order of possession and a monetary order based on unpaid rent.

The Landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on July 16, 2021, 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 July 16, 2021 and are deemed to have been received by the Tenant on July 21, 2021, the fifth day after they were mailed.

Issue(s) 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 a residential tenancy agreement which was signed by the Landlord on April 25, 2020 and the Tenant on April 26, 2020, indicating a monthly rent of \$1,950.00, due on the first day of each month for a tenancy commencing on May 1, 2020;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated June 4, 2021, for \$2,900.00 in unpaid rent. The 10 Day Notice did not indicate an effective vacancy date. The line on the 10 Day Notice where the effective date (move out date) is required was left blank;
- a copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the Tenant’s door; and;
- a copy of a Direct Request Worksheet showing the rent owing and paid during the relevant period.

Analysis

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

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 there is no effective date (the day when the Tenant must move out of or vacate the site) 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*. It is possible to amend an incorrect date on the 10 Day Notice, but the *Act* does not allow an adjudicator to input a date where none is written.

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 4, 2021, without leave to reapply.

The 10 Day Notice dated June 4, 2021 is cancelled and of no force or effect.

For the same reasons identified in the 10 Day Notice the Landlord’s application for a monetary order for unpaid rent is dismissed, 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 4, 2021, is dismissed, without leave to reapply.

The 10 Day Notice dated June 4, 2021, 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: July 30, 2021

Residential Tenancy Branch