



# Dispute Resolution Services

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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 September 2, 2021.

The Landlord submitted a witnessed Proof of Service Notice of Direct Request Proceeding form which declares that on September 16, 2021, the Landlord served Tenant T.G.(T.) the Notice of Dispute Resolution Proceeding - Direct Request by handing it to Tenant V.J. The Landlord did not submit a Proof of Service Notice of Direct Request Proceeding form to indicate if they served Tenant V.J. the Notice of Dispute Resolution Proceeding - Direct Request.

Based on the written submissions and evidence of the Landlord and in accordance with section 89(2) of the *Act*, I find that the Direct Request Proceeding documents were served to Tenant T.G.(T.) on September 16, 2021.

### **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 a residential tenancy agreement which was signed by the Landlord and the Tenant V.J. on April 15, 2021, indicating a monthly rent of \$2,200.00, due on the fifteenth day of each month for a tenancy commencing on April 15, 2021;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”) dated July 19, 2021, for \$2,200.00 in unpaid rent. The 10 Day Notice provides that the Tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end;
- a copy of a signed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to Tenant V.J. by registered mail on July 19, 2021. The Landlord submitted a copy of the Canada Post Customer Receipt containing the tracking number to confirm they mailed it; 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 Tenants 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 July 19, 2021, without leave to reapply.

The 10 Day Notice dated July 19, 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 July 19, 2021, is dismissed, without leave to reapply.

The 10 Day Notice dated July 19, 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.

Dated: October 19, 2021

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Residential Tenancy Branch