



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This matter dealt with an application(s) by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and utilities as well as to recover the filing fee for this proceeding. The Landlord also applied to keep all or part of a security deposit.

At the outset, the Landlord confirmed that the Notice of Hearing and Application for file #729099 had not been served on the Tenant and as a result, that application is dismissed. The Landlord also confirmed that there are presently no arrears of rent and as a result, the Landlord abandoned his application for unpaid rent and to keep the security deposit.

Issue(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

Background and Evidence

This month to month tenancy started on started April 1, 1996. Rent is \$1,285.00 payable on the 1st day of each month. The Landlord says he served the Tenant on December 5, 2008 with a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated December 5, 2008 by posting it to his door. The Landlord said that Notice alleged the Tenant had failed to pay the balance of December 2008 rent in the amount of \$585.00. The Landlord also said that the outstanding rent was not paid until December 15, 2008. The Landlord did not provide a copy of that Notice as evidence at the hearing and did not have a copy in his possession to refer to.

Analysis

Section 46 of the Act says (in part) that a landlord may end a tenancy if rent is unpaid by giving a notice to end tenancy. The notice to end tenancy must comply with section 52 of the Act in order to be enforceable.

In this case, I find that the Landlord has not provided sufficient evidence to determine if the Notice to End Tenancy for Unpaid Rent and Utilities dated December 5, 2008 is an effective notice and as a result, the Landlord's application for an Order of Possession is dismissed without leave to reapply.

Conclusion

The Landlord's application is dismissed.