

DECISION AND REASONS

Dispute Codes

OPR FF

Introduction

The Landlord has applied for dispute resolution requesting an order of possession for unpaid rent and filing fee recovery costs. The Landlord application for dispute resolution did not include a request for a monetary order for unpaid rent.

Issues to be Decided

Whether the Landlord is entitled to an order of possession and a claim for filing fee costs of \$50.00.

Background and Evidence

The Landlord testified that, despite repeated written requests to the Tenants for their required annual asset and income declaration, the Tenants have failed to respond. This tenancy commenced on December 1 2005 and the subsidized rent was most recently \$468.00 per month.

The Landlord testified that due to the Tenants' failure to submit current asset and income information, effective December 1 2008 their rent increased to a market level of \$1650 per month.

The Landlord testified that the property manager who posted the 10 day notice to end tenancy for unpaid rent on the door to the rental unit was unavailable to testify during this hearing. The Tenant testified that she did receive notice of this hearing, but did not see the notice to end tenancy which the Landlord stated was posted on the rental unit door on December 8 2008.

Analysis

Residential Tenancy Branch policy states that the person who served the documents must either be present at the hearing, or have sworn an affidavit of service or a statutory declaration which is sworn before either a Notary Public or a Lawyer, and which is given to the arbitrator at the hearing

A sworn affidavit of service or statutory declaration must have sworn exhibits attached to it which are copies of each of the actual document(s) served. The property manager was unavailable to testify and a sworn affidavit was not presented as evidence. Therefore, I find that the 10 day notice to end tenancy issued on December 8 2008 is of no effect or force.

Conclusion

The Landlord application for an order of possession and monetary order for filing fee costs is dismissed without leave to reapply.