



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, and recovery of the filing fee. The landlord had initially requested the Order of Possession and Monetary Order by way of a Direct Request proceeding; however, the Dispute Resolution Officer reviewing the Direct Request found that landlord failed to provide sufficient evidence concerning service of the Notice to End Tenancy and the proceeding was reconvened for today's participatory hearing. The landlord was provided Notices of a Dispute Resolution Hearing to serve upon all three named respondents. None of the respondent tenants appeared at the hearing.

Upon further enquiry, the landlord testified the one of the three co-tenants was personally served with the Notice of a Dispute Resolution Hearing on February 19, 2009 at her place of work; however, the landlord did not serve that tenant with the Application for Dispute Resolution. The landlord testified that another co-tenant was personally served with the Application for Dispute Resolution on February 10, 2009 at the rental unit.

The landlord also testified that the tenants have vacated the rental unit and the landlord no longer requires an Order of Possession. The remainder of this decision pertains to the landlord's request for a Monetary Order.

Issue(s) to be Decided

1. Whether the landlord has sufficiently notified the tenants of today's hearing and the landlord's claims against the tenants?
2. Landlord's entitlement to a Monetary Order for unpaid rent.
3. Award of the filing fee.

Background and Evidence

The landlord provided evidence that three co-tenants were party to the tenancy agreement. The landlord personally served a *10 Day Notice to End Tenancy for Unpaid Rent* upon one of the co-tenants on February 3, 2009. The tenants did not pay or dispute the Notice to End Tenancy. The tenants did not pay any monies towards the outstanding rental arrears after receiving the Notice to End Tenancy. The tenants vacated the rental unit sometime during the first week of March 2009.

Analysis

The Act requires that the party making an Application for Dispute Resolution give a copy of the application to the other party. A "party" is an applicant or respondent named on the Application for Dispute Resolution. Since there are three respondents named on the Application for Dispute Resolution, the landlord should have served each of the respondents with the Application for Dispute Resolution. The Rules of Procedure also require that the party making the application serve each of the respondents with notification of the hearing.

The dispute resolution process is based on the principles of natural justice. Natural justice requires that a respondent be informed of the nature of the claim and the opportunity to respond to the claims being made against them. This is one of the primary purposes for serving the other party with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing.

An Application for Dispute Resolution may be amended where a party is not served. However, in this case, I find that none of the tenants were served with both the Application for Dispute Resolution and the Notice of Dispute Resolution Hearing. As such, I am not satisfied that any of the tenants has been sufficiently notified of the hearing and the claims being made against them and an amendment is not appropriate.

In light of the above, I dismiss the landlord's application with leave to reapply. I make no award for the filing fee.

Conclusion

The landlord's application is dismissed with leave to reapply.

March 11, 2009

Date of Decision

Dispute Resolution Officer