



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, CNC, MNR, MNSD, FF

Introduction

This hearing dealt with cross applications. The landlord requested an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, loss of rent, retention of the security deposit and recovery of the filing fee. The tenant's representative applied to cancel the Notice to End Tenancy for Unpaid Rent. Both parties were represented at the hearing and were provided the opportunity to be heard.

Issues(s) to be Decided

1. Has the landlord established an entitlement to an Order of Possession and Monetary Order for unpaid rent, retention of the security deposit and recovery of the filing fee.
2. Are there grounds to set aside the Notice to End Tenancy?

Background and Evidence

The landlord and female tenant entered into a tenancy agreement several years ago. The tenant was required to pay rent of \$625.00 on the 1st day of every month. The female tenant's adult son moved into the rental unit in November 2008. The female tenant died in February 2009. On April 20, 2009, the landlord issued a *10 Day Notice to End Tenancy for Unpaid Rent* (the Notice) to the female tenant indicating rent of \$625.00 was outstanding as of April 1, 2009.

The landlord testified that he served the tenant's son with the Notice in person on April 20, 2009 at approximately 6:00 p.m. in the presence of a witness. The tenant's son

testified that he found the Notice on the floor under the door on April 27, 2009. The tenant's son filed an application to cancel the Notice on May 4, 2009.

There was much disputed testimony as to whether the tenant's son paid rent for March and April 2009, whether a tenancy relationship was formed between the landlord and the tenant's son, and whether the landlord had been notified about the tenant's death.

Analysis

Section 52 of the Act provides that a Notice to End Tenancy issued by a landlord must be on the approved form and meet certain criteria. One of the criteria is that the address of the rental unit is given on the Notice.

Upon review of the Notice submitted as evidence, I find that the form used is that of the approved form; however, the landlord failed to complete the section that identifies the rental unit address. The landlord completed the service address for the tenant but not the rental unit address. While I appreciate the service address and the rental unit address are often the same, the service address is for service of documents and is not an indication of the rental unit address.

In light of the above, I find the Notice to be ineffective and unenforceable. Therefore, I do not provide the landlord with an Order of Possession or Monetary Order.

I make no determination as to whether the landlord and tenant's son entered into a tenancy relationship or the amount of rent received by the landlord since March 2009. The landlord is at liberty to issue another Notice to End Tenancy that complies with the requirements of the Act.



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Conclusion

The Notice to End Tenancy does not indicate the rental unit address in the space provided on the approved form and the Notice is of no effect.

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: June 03, 2009.

Dispute Resolution Officer