



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent.

The Estate Administrator stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the service address noted on the Application, on December 18, 2009. A tracking number was provided to corroborate this statement. The Estate Administrator stated that the Application for Dispute Resolution and Notice of Hearing were returned to the sender. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent pursuant to section 55 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Estate Administrator stated that she believes that this Tenant entered into a tenancy agreement with the Landlord, for which the Tenant was required to pay monthly rent of \$830.00. She stated that the Tenant did not pay rent for October, November and December of 2009 and for January of 2010.

The Estate Administrator stated that the Ten Day Notice to End Tenancy that is the subject of this dispute was posted on the door of the rental unit on November 25, 2009. A copy of this Ten Day Notice to End Tenancy was submitted in evidence. The Ten Day Notice to End Tenancy has a declared effective date of December 08, 2009, however the Notice is not dated.

Analysis

Section 46(1) of the *Act* stipulates that a landlord may end a tenancy if rent is unpaid on any day after the rent is due by giving a notice to end tenancy.

Section 46(2) of the *Act* stipulates that a notice to end tenancy under this section must comply with section 52 of the *Act*.

Section 52(a) of the *Act* stipulates that to be effective a notice to end tenancy must be signed and dated by the landlord or the tenant giving the notice.

In the circumstances before me I find that the Landlord did not date the 10 Day Notice to End Tenancy that was posted to the Tenant's door on November 25, 2009. I therefore find that the Notice was not effective, as it does not comply with section 52(a) of the *Act*.

Conclusion

As the Notice to End Tenancy that was posted to the Tenant's door is not effective, I hereby dismiss the Landlord's application for an Order of Possession. The Landlord retains the right to serve the Tenant with another Ten Day Notice to End Tenancy if the rent remains unpaid.

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: January 26, 2010.

Dispute Resolution Officer