



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

OPC; FF

Introduction

This is the Landlord's application for an Order of Possession for Cause and to recover the cost of the filing fee from the Tenant.

Both parties signed into the conference and gave affirmed testimony. No documentary evidence was provided by either party.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord seeks to end the tenancy because the Tenant is repeatedly late in paying rent. The Landlord testified that the parties entered into a written tenancy agreement. No copy of the tenancy agreement was provided in evidence.

The Landlord testified that he served the Tenant with the Notice to End Tenancy, but he was not certain of the date. The Tenant stated that she received the Notice to End Tenancy, but could not recall when. She stated that the Notice was not dated or signed by the Landlord.

Analysis

The Landlord did not provide any documentary evidence in support of his application (i.e. a copy of the Notice to End Tenancy; a copy of the tenancy agreement, or a copy of

the ledger of rent payments). The Application for Dispute Resolution filed by the Landlord states “When the dispute involves a Notice to End Tenancy, the Notice to End Tenancy must be given to the tenant before applying for Dispute Resolution **and** the Notice to End Tenancy must be submitted to the Residential Tenancy Branch.”

A Notice to End Tenancy must comply with the provisions of Section 52 of the Act, which requires Notices to be in the approved form and be dated and signed by the landlord.

The Landlord seeks to end the tenancy based on a Notice to End Tenancy that can't be confirmed as to its validity, and therefore the Landlord's application for an Order of Possession is dismissed.

The Landlord has not been successful in his application and is not entitled to recover the cost of the filing fee from the Tenant.

Conclusion

The Landlord's application is dismissed. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

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, 2011.
