Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes   Tenant   CNR
                          Landlord   OPR, MND, MNR

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession for unpaid rent, a monetary order for unpaid rent and compensation for damage to the unit, site or property.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy for unpaid rent.

Service of the hearing documents by the Landlord to the Tenant were done by personal delivery on February 11, 2011in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlord were not serviced as the Tenant did not pick the documents up at the Residential Tenancy Branch office due to a medical issue. As a result of the Tenant has not serving the Landlord with the Notice of Hearing, the Application and hearing package. The Tenant's application is dismissed, pursuant to section 59 of the Act which says the application for Dispute Resolution with the Residential Tenancy Branch must be service on the other party within three days of making the application.

At the start of the Hearing the Landlord said the Tenant had no unpaid rent and his rent was paid when it was due. He continued to say that the other tenant in the rental unit had not paid her rent for January 2011 of $370.00 and February of $370.00 as well as the security deposit of $185.00. The Landlord agreed that he had service the wrong Tenant with the 10 Day Notice to End Tenancy for Unpaid Rent and with the application for dispute resolution. Consequently, as the Tenant has no unpaid rent and he has made his rent payment when they are due, I dismiss the Landlord's application for an Order of Possession for unpaid rent and his monetary claim for unpaid rent.

Conclusion

I dismiss the Landlord's application without leave to reapply as the Tenant has no unpaid rent and he has paid his rent when it was due.

I dismiss the Tenant's application without leave to reapply as he did not service the Notice of Hearing, the application and the hearing package on the Landlord.

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.*

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Residential Tenancy Branch