



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, OPB, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession. The tenant did not participate in the hearing but 3 other persons claiming to be her subtenants participated.

Issue to be Decided

Has the tenant been properly served with the notice to end tenancy, application for dispute resolution and notice of hearing?

Background and Evidence

The parties agreed that in January 2011 the landlord entered into a tenancy agreement which listed the tenant, her husband and 2 children as tenants. The parties further agreed that early in the tenancy, other parties (the “New Tenants”), 3 of whom appeared at the hearing, moved into the rental unit with the tenant.

The New Tenants testified that the tenant vacated the rental unit in early February. The landlord testified that on February 10 he served one of the New Tenants with a one month notice to end tenancy (the “Notice”). The landlord further testified that he sent his application for dispute resolution and notice of hearing (the “Hearing Documents”) to the tenant via registered mail. The landlord acknowledged that he had accepted rent from the Ministry of Employment and Income Assistance on behalf of the New Tenants.

Analysis

In order to proceed with the hearing, I must be satisfied that the tenant has been served with the Hearing Documents. As the tenant apparently no longer resided at the rental unit at the time the Hearing Documents were sent there via registered mail, I am unable to find that the tenant was properly served with the Hearing Documents and accordingly I dismiss the application with leave to reapply.

I find it appropriate to make specific findings of fact with respect to this tenancy. While there may be no written agreement between the landlord and the New Tenants, I find that when he accepted rent from the Ministry of Employment and Income Assistance on their behalf, the landlord accepted them as tenants. I find that the New Tenants are co-tenants and that the landlord may act against one or all with respect to ending this tenancy or advancing a monetary claim against them.

At the hearing the New Tenants provided their legal names to the landlord. The landlord is free to serve a notice to end tenancy on the New Tenants which they will be entitled to dispute.

Conclusion

The claim is dismissed with leave to reapply.

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: March 14, 2011

Residential Tenancy Branch