

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an application by the landlord for an order of possession. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord gave evidence that his wife and mother served the tenant with a One month Notice to End Tenancy on January 7, 2011 however they were not available to confirm this. The tenant disputes this and testified that the first time that she was made aware of the landlord's application was when the landlord served the tenant with the Notice of Hearing package.

Analysis

As explained to the parties at the outset of the hearing the onus or burden of proof is on the party making the claim, in this case the landlord. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The landlord was unable to provide documentary evidence or witnesses to support his claim that he had properly served the tenant.

Conclusion

The landlord's application 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 30, 2011.

Residential Tenancy Branch