



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This is an application by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent and utilities.

Both parties attended the hearing by conference call and gave testimony.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord states that the 10 day notice was served by personal service on March 2, 2011. The Tenant confirms receiving the notice on that date. The notice shows a failed rent payment due on March 2, 2011 of \$806.50. The Tenant stated that rent was due on March 1, 2011 and that the monthly rent was \$575.00. The Landlord confirms this. The Landlord states that the outstanding \$231.00 was rent arrears from February 2011. The Tenant disputes this stating that rent was paid in February and that they have receipts. The Tenant's stated that they did not know February rent was an issue since it is not referred to in the notice or the application. The Landlord also stated that utilities of \$50.00 following a written demand on February 28, 2011 were owed. The Landlord on direct evidence states that no written demand was ever made to the Tenant. The Tenant states that they tried to pay the rent on March 1, 2011, but that the Landlord had refused to accept the payment. The Tenant also stated that they did read the 10 day notice, but did not file an application for dispute resolution. The Landlord did not dispute the Tenant's claim.

Analysis

I am satisfied that both parties have been properly served with the notice of hearing and the Landlord's evidence package. Neither party has disputed service.

The notice is flawed as it is not clear what rent is in arrears. The Landlord has also stated that no written demand for payment of utilities was ever made. As both parties have disputed the other's evidence and neither has provided any supporting evidence, I am not satisfied that the Landlord has proven his claim for the application. The Landlord's application is dismissed.

Conclusion

The Landlord's application is dismissed.

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: April 01, 2011.

Residential Tenancy Branch