



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on May 10, 2011. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

At the start of the conference call the Landlord say he serviced a 2 Month Notice to End Tenancy for Landlord's Use of the Property by faxing it to the Tenant's accountant, but he could not remember the date he faxed it. As well the Landlord could not confirm how or when he served the 10 Day Notice to End Tenancy to the Tenant. The Tenant said he did not receive either of these documents.

I find the Landlord has not proven service of both of the Notices to End Tenancy that his application is based on. The service of Notices to End Tenancy must comply with the service requirements as outlined in section 89 of the Act. As well the Tenant said he did not receive the Notices to End Tenancy therefore he could not prepare a defence for the hearing. Consequently I dismiss the Landlord's application dated May 9, 2011 as I find the 2 Month Notice to End Tenancy for Landlord's Use of the Property dated March 28, 2011 and the 10 Day Notice to End Tenancy for unpaid Rent dated April 6, 2011 are not valid due to lack of proof of service.

Conclusion

I dismiss the Landlord's application dated May 9, 2011 with leave to reapply due to lack of proof that the Notices to End Tenancy were service in compliance with section 89 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*.

Residential Tenancy Branch