



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and to recover the cost of the filing fee from the Tenant for this application.

Issue(s) to be Decided

1. Has the Tenant been served notice of the dispute resolution hearing in accordance with the *Residential Tenancy Act*?
2. Has a valid 10 Day Notice be issued and served to the Tenant in accordance with the Act?

Background and Evidence

The Agent for the Landlord appeared and advised they have accepted this file to act on behalf of the Landlord as of June 8, 2011. She could not provide evidence as to if or how the Landlord served the hearing documents to the Tenant; however she could confirm they posted a copy to the Tenant's door on June 8, 2011.

No evidence was provided by the Agent and she could not provide testimony as to if the Landlord served evidence to the Tenant or the tenancy branch.

Analysis

The Landlord made an Application to obtain an Order of Possession and a Monetary Order based on service of a Notice to End Tenancy. However, he had not submitted a copy of the Notice into evidence.

The hearing package contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to the Landlord.

The Notice to End Tenancy document is not a mere technicality. In fact, it is hard to imagine another document being more relevant or material to the Landlord's claim, in particular when he is asking to have this tenancy ended.

The responsibility of proving a claim is on the person making the claim. As the Landlord failed to provide a copy of the Notice, I find the Landlord has provided insufficient evidence to prove his claim.

Therefore, I dismiss the claim without leave to reapply. The Notice to End Tenancy is not cancelled.

Conclusion

I HEREBY DISMISS the Landlord's claim for an Order of Possession and a Monetary Order for June 2011 rent, without 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: June 29, 2011.

Residential Tenancy Branch

