



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

DECISIONS AND REASONS

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and to recover the filing fee.

The landlord and his counsel appeared and gave affirmed testimony and were provided the opportunity to present their evidence orally and make submissions to me.

The tenant did not appear at the hearing.

The landlord testified that the Application and Notice of Hearing documents were delivered to the tenant via posting on the door. The landlord stated that he thought the date of delivery was August 5, 2011.

The landlord failed to submit any evidence in support of his application.

Upon query, the landlord testified that he was unsure of the date the Notice to End Tenancy was delivered to the tenant and did not know the date of the Notice itself. The landlord did not have a copy of the Notice in his file and could not answer questions about the Notice.

The landlord is seeking an order of possession; however, the landlord did not provide documentary evidence to prove that he had issued the tenant a *10 Day Notice to End Tenancy for Unpaid Rent* (the "Notice"), in accordance with section 47 and 52 of the *Residential Tenancy Act* (the "Act").

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The landlord is seeking to end the tenancy due to this breach and has the burden to prove the reason indicated on the Notice.

A Notice to End Tenancy can only be enforced if it complies with the requirements of section 52 of the Act. Without a copy of the Notice to End Tenancy that the landlord served on the tenant or any testimony about the Notice, I cannot conclude that the Notice is effective and therefore enforceable. I also cannot confirm that the tenant received a copy of the Notice or date of the service of the Hearing Package.

I therefore find that the landlord had insufficient evidence to show the tenant was issued a valid 10 Day Notice to End Tenancy or of the Hearing Package in a timely manner consistent with the Residential Tenancy Branch Rules of Procedure.

Conclusion

I hereby **DISMISS** the landlord's application, **without leave to reapply**.

As I have dismissed the landlord's application, I deny his request for an Order of Possession.

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: September 02, 2011.

Residential Tenancy Branch