



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, FF

Introduction

This Application for Dispute Resolution by the landlord indicated that the landlord was seeking an Order of Possession based on a Ten-Day Notice to End Tenancy for Unpaid Rent and also seeking a monetary order for rental arrears owed.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on September 21, 2011, the tenant did not appear.

At the outset of the hearing, the landlord testified that the tenant had since vacated the unit leaving no forwarding address.

Issue(s) to be Decided

The remaining issues to be determined based on the testimony and the evidence is whether the landlord is entitled to monetary compensation under section 67 of the *Act* for rental arrears owed..

Background and Evidence

The landlord gave verbal testimony that a tenancy existed with the tenant and that the rent was not paid. The landlord testified that a Ten Day Notice to End Tenancy for Unpaid Rent was issued and served on the tenant in person on September 12, 2011.

However, the landlord had not submitted a copy of the Notice to End Tenancy into evidence and in fact had failed to submit any evidence at all other than the landlord's Application for Dispute Resolution

Analysis

A monetary claim for rent is based on the Ten-Day Notice to End Tenancy, and the burden of proof is on the applicant claiming compensation to prove that the tenancy exists, that this debt exists and that the evidence upon which the landlord intended to rely was also served on the tenant.

I find that the material given to the applicant contains detailed information and instructions. Under the heading, “*GENERAL INFORMATION about your responsibility and the hearing*” the Notice states:

“Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions are included in this package. Deadlines are critical.”

The instructions go on to state that Residential Tenancy Branch Rules of Procedure apply to the proceedings and refers participants to contact the Residential Tenancy Branch and also gives the website address.

With respect to the landlord’s request for monetary compensation, I find that I am unable to make a determination in the absence of key evidence that must be submitted and that also must be served on the respondent 5 days prior to the hearing in accordance with the Act and Rules of Procedure.

Conclusion

In light of the above, I find that this application cannot proceed under the circumstances and I make no findings on the merit of the application. The landlord’s application is therefore 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: October 18, 2011.

Residential Tenancy Branch