



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking to end the tenancy, and for a monetary order for unpaid rent, compensation for damage or loss, and to recover the filing fee for the claim and an order to keep all or part of the security deposit.

The Landlord's agent claimed he personally served the Tenant with the Notice of Hearing and Application for Dispute Resolution. The Landlord's agent stated that he had a witness present when he served this on the Tenant on November 09, 2011. The Landlord's agent did not bring the witness to the hearing and he did not submit any documentary evidence to prove service. The Tenant did not attend the hearing.

The Landlord has also not submitted in evidence a copy of the Notice to End Tenancy served on the Tenant.

The Application for Dispute Resolution form contains instructions that the Landlord must submit in evidence to the Residential Tenancy Branch a copy of the Notice to End Tenancy issued to the Tenant. The hearing package of documents also contains instructions on evidence and the deadlines to submit evidence to each party, as does the Notice of Hearing.

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 a Tenant evicted under the information contained in this document.

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

I further find the Landlord has provided insufficient evidence to prove he served the Tenant with the Notice of Hearing and Application for Dispute Resolution.

Therefore, I dismiss the Landlord's Application with leave to reapply.

As the Landlord was not successful in this Application, I decline to award recovery of the filing fee.

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: November 24, 2011.

Residential Tenancy Branch