

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession for Cause and to recover the filing fee.

At the start of the conference call it became apparent that the Landlord did not submit a copy of the 1 Month Notice to End Tenancy for Cause in the evidence or hearing package. Consequently the Notice to End Tenancy could not be validated and as a result I find the Landlord's application for an Order of Possession based on the 1 Month Notice for Cause is dismissed with leave to reapply.

In addition the Landlord submitted late evidence containing a 10 Day Notice to End Tenancy for Unpaid Rent dated November 1, 2011, which the Landlord said she serviced to the Tenants in person on November 1, 2011. The Landlord continued to say she submitted an evidence package to the Residential Tenancy Branch on November 4, 2011 and she served the Tenants with the same evidence package. The Residential Tenancy Branch received the late evidence package November 4, 2011. The Tenants said they did not receive the 10 Day Notice to End Tenancy for Unpaid Rent nor did they receive the Landlord's evidence package. As the Landlord has no proof of service of the 10 Day Notice to End Tenancy for Unpaid Rent and the evidence package and the Tenants say they did not receive the Notice or the evidence package I find the Landlord has not met the service requires of section 88 and 89 of the Act. Consequently I do not accept the landlord's late evidence. The Landlord was told that she can reapply for dispute resolution with the Residential Tenancy Branch to end the tenancy based on 10 Day Notice to End the Tenancy for Unpaid Rent if she wants to reapply.

### Conclusion

The Landlord's application for an Order of Possession is dismissed with leave to reapply.

As the Landlord was unsuccessful in this matter the Landlord is ordered to bear the \$50.00 cost of the filing fee for this proceeding which the Landlord has already paid.

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 9, 2011.

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Residential Tenancy Branch