



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated and a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on December 5, 2011, the tenant did not appear.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent

Preliminary Matter

The landlord had failed to submit into evidence a copy of the 10-Day Notice to End Tenancy apparently dated November 5, 2011 that was served on the tenant by posting it on the tenant's door. The landlord was advised that the hearing could not proceed on her application without this vital piece of evidence as the Order of Possession and Monetary Order must both be based on the Ten Day Notice to End Tenancy for Unpaid Rent.

The landlord protested that this document had been submitted into evidence at the time she applied. However there was no record of the Notice in the file.

It was determined that the landlord should be permitted the opportunity of faxing in the copy of the Ten Day Notice to End Tenancy for Unpaid Rent that was served on the tenant directly to the attention of the Dispute Resolution Officer. The landlord was granted one day to have this evidence in, failing which a decision would be rendered in

its absence. The hearing proceeded on this premise, after which the decision was held in abeyance pending the receipt of the missing document.

Later on the day of the hearing, a fax was subsequently received from the landlord. However, the document that was faxed in was not a copy of the Ten Day Notice to End Tenancy for Unpaid Rent . Instead the landlord had sent in a form titled, "Ten Day Notice to End Tenancy for Unpaid Rent or Utilities PROOF OF SERVICE". This document only verified that a Ten Day Notice to End Tenancy for Unpaid Rent was posted on the tenant's door on November 5, 2011 at 3:30 p.m. In addition, the landlord has included a copy of the first page of the "*Landlord's Application for Dispute Resolution*". No copy of the Ten Day Notice to End Tenancy for Unpaid Rent was received in evidence.

Given the above, I find that the landlord's application must be dismissed due to insufficient evidence.

Conclusion

I hereby issue dismiss the landlord's application in its entirety 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: December 19, 2011.

Residential Tenancy Branch