



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, for a Monetary Order as compensation for unpaid rent, for damage to the unit, site or property, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery in December, 2011. The Application is dated January 4, 2012. Based on the evidence of the Landlord, I find that the Tenant was not served with the Landlord's hearing package as required by s. 89 of the Act.

Further the Landlord said she served the 10 Day Notice to End Tenancy on December 12, 2011 and the 10 Day Notice to End Tenancy is dated November 9, 2011, with an effective vacancy date of November 30, 2011.

I find the Landlord has not served the Tenant with the Application and Hearing Package according to section 89 of the Act and the Landlord has not served the 10 Day Notice to End Tenancy in accordance with section 46 (1) of the Act. The Application and Hearing package are to be served within 3 days after the application is made with the Residential Tenancy Branch. The Landlord served the Tenant with the application prior to applying for dispute resolution. This is incorrect. The 10 Day Notice to End Tenancy was served on December 12, 2011, 33 days after the date on the Notice (November 9, 2011) and 12 days after the effective vacancy date on the Notice (November 30, 2011). This means the Tenant was served the 10 Day Notice to End Tenancy after the Effective Vacancy or the date or after the date the Landlord said the Tenant had to be moved out by. This is incorrect as well and invalidates the 10 Day Notice to End Tenancy. Consequently I dismiss the Landlord's application for incorrect serve of both the Application and Hearing Package and the 10 Day Notice to End Tenancy.

Conclusion

The Landlord's application is dismissed 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*.

Dispute Resolution Officer