



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

This hearing was convened in response to an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent. The Landlord and Tenant both appeared. No copy of a 10 Day Notice to End Tenancy for Non-Payment of Rent (the "Notice") was provided by the Landlord for this Hearing. The Landlord states that the Notice was both left at the Residential Tenancy Branch (the "RTB") office and faxed in to the RTB office. The Landlord states that the Notice was posted on the Tenant's door on January 10, 2012 and that this service was both witnessed and photographed. No witness statement, affidavit of service, or photograph was provided by the Landlord as evidence that the Tenant was given the Notice.

The Tenant states that she did not receive any Notice from the Landlord and that the first she heard of the dispute was when the Landlord's application was received in the mail. As the claim of the Landlord is based on the Notice, which provides a Tenant notice of the time to pay the rent or to dispute the Notice, it must be determined on a balance of probabilities that such a Notice was given to the Tenant. As there is no copy of the Notice on file and no evidence of service by way of affidavit, and given the denial of receipt of the Notice by the Tenant, I find that the Landlord has not substantiated on a balance of probabilities that the Tenant was given the Notice. Accordingly, I dismiss the Landlord's application 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: February 14, 2012.

Residential Tenancy Branch