



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began April 1, 2009 with current monthly pad rent of 375.00.

On February 3, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

On February 27, 2012 after payment of the rent, the landlord issued the tenants a note stating '*licence to occupy*'.

At the start of the hearing the landlord was allowed to amend the application to reflect the tenant's correct legal name.

The landlord testified that the February 3, 2012 notice to end tenancy was 'posted' on the tenant's door. This posting was completed by the landlord folding the envelope and sticking it in the door frame by the door handle of the tenant's trailer. The landlord's witness confirmed that the notice to end tenancy was posted in this manner.

The tenant testified that they never received the notice to end tenancy that the landlord claims to have posted on the tenant's door February 3, 2012. The tenant stated that she did not receive the notice until she was served with the landlord's hearing package on February 16, 2012. The tenant stated that the rent was paid on February 27, 2012 and was provided a receipt by the landlord stating '*licence to occupy*'.

The tenant referred to the landlord's list of late rent payments and wanted to note that for the past year they have not paid the rent late with the exception of February 2012.

Analysis

Based on the documentary evidence and testimony I find that the tenants were not properly served with a notice to end tenancy for non-payment of rent therefore the landlord has not met the burden of proving that they have grounds for entitlement to an order of possession for unpaid rent.

I accept the tenant's testimony that the February 3, 2012 notice to end tenancy was not received by the tenant on February 3, 2012 and it was not until the tenants received the landlord's hearing documents on February 16, 2012 that they were in receipt of the notice. And although the landlord provided the tenants with a 'license to occupy' receipt after the rent was paid on February 27, 2012, it is the service of the notice that has rendered the notice invalid.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

As the landlord has not been successful in their application the landlord is not entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's 10 Day Notice to End Tenancy for Unpaid Rent dated February 3, 2012 is hereby set aside with the result that the tenancy continues uninterrupted.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Act*.

Dated: March 7, 2012

Residential Tenancy Branch