



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPC, MNR, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, and the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Did the landlord serve the tenant with a valid notice to end tenancy? Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent, and the filing fee?

Background and Evidence

The tenancy started on March 01, 2011. The monthly rent is \$650.00 due in advance on the first of each month. The landlord stated that the tenant was always late paying rent and in the first week of February he served the tenant with a notice to end tenancy. The landlord agreed that the notice was not on the approved form and therefore he served the tenant with a second notice which consisted of two pages in the approved format. He stated that he served this notice to the tenant on February 12, 2012 by posting the notice on the tenant's front door.

The tenant stated that she received the first notice written on a piece of paper but did not receive any other notice as alleged by the landlord. The landlord did not file any evidence to support his testimony.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

In this case, the landlord stated that he had served the tenant with a notice to end tenancy on February 12, 2012 but did not file any proof of service. The tenant denied having received this notice and stated that the only notice she received was the one written on a piece of paper.

Based on the sworn testimony of the both parties, I find that the landlord has not proven that he served the tenant with a notice to end tenancy and therefore I find that the tenant was not given the opportunity to dispute the notice.

Accordingly, the landlord's application is dismissed. Since the landlord has not proven his case, he must bear the cost of filing this application.

Conclusion

The landlord's application is dismissed.

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: March 22, 2012.

Residential Tenancy Branch