



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR

Introduction

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord's agents gave affirmed testimony at the Hearing.

Preliminary Matters

Regarding service of the Notice of Hearing documents

The Landlord's agent JS testified that she mailed the Notice of Hearing documents, by registered mail, to the Tenant at the rental unit. She was not certain of the date that she mailed the documents, but provided the tracking numbers for the registered mail. A search of the Canada Post tracking system confirms that the documents were mailed on April 20, 2012.

I am satisfied that the Tenant was served with the Notice of Hearing documents pursuant to the provisions of Section 89(1)(c) of the Act.

Regarding service of the 10 Day Notice to End Tenancy

The Landlord's agents testified that the Notice to End Tenancy was served on March 31, 2012. The Landlord's Application for Dispute Resolution also indicates that the 10 Day Notice to End Tenancy was posted to the Tenant's door on March 31, 2012. The Landlord also provided a Proof of Service document which states that the Landlord's agent RS posted the 10 Day Notice to End Tenancy on the Tenants door on March 31, 2012, at 12:00 p.m. The Proof of Service document is witnessed and signed by the Landlord's agent JS.

The Landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") in evidence. It was issued on April 11, 2012, for unpaid rent for the month of April, 2012. When I pointed this out, the Landlords stated that there were two Notices to End Tenancy and that the other one was issued on March 31, 2012. The other one was for having seven dogs at the rental unit.

I clarified that I was talking about the Notice that seeks to end the tenancy for unpaid rent, which is the only Notice to End Tenancy provided in evidence and the only one the

Landlord indicated it wanted to enforce on its Application for Dispute Resolution. I asked the Landlord's agents again how the Notice was served. They stated that the Notice was posted on the Tenant's door on Good Friday (which was April 6, 2012). Then they stated that the Notice was posted on the Tenant's door on April 10, 2012.

I explained to the Landlord's agents that I could not rely on their testimony, because the Notice was not issued until April 11, 2012, and that the Landlord's agent had written on the Application for Dispute Resolution that the Notice was posted on April 14, 2012.

The teleconference remained open until 2:15, but the Tenant did not sign into the conference. Therefore, I dismissed the Landlord's application with leave to reapply, as there was no prejudice to the Tenant in so doing.

Conclusion

The Landlord's application dismissed, **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: May 09, 2012.

Residential Tenancy Branch