Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*"), seeking an order of possession for unpaid rent or utilities; a monetary order for unpaid rent or utilities; and to recover the filing fee.

The landlord appeared by conference call and gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me. The tenant did not attend the hearing.

The landlord made an Application based on a 10 Day Notice to End Tenancy (the "Notice"). The landlord, however, had not submitted a copy of the Notice as evidence prior to the hearing.

The application form requires the landlord to submit a copy of the Notice in evidence. As well, the hearing package provided to each applicant contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to the parties.

The Notice to End Tenancy document is not a mere technicality. In fact, it is hard to imagine another document being more relevant or material to the landlord's claim, in particular when he is asking to have this document support the eviction of the tenant.

The responsibility of proving a claim is on the person making the claim. As the landlord failed to provide a copy of the Notice, I requested that the landlord fax a copy of the Notice as evidence. After reviewing the faxed Notice, the amounts owing did not match the application for a monetary order before me or the testimony provided. I, therefore, cancel the Notice and dismiss the landlord's application with leave to reapply. The landlord must provide new Notice to the tenant with the actual amount owed and provide documentary evidence as indicated on the application form.

Dated: June 13, 2012

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Residential Tenancy Branch