



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction and Conclusion

This hearing dealt with the landlord's Application for Dispute Resolution, 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 made an Application based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"). However, she did not submit a copy of the Notice in evidence.

The application form requires the landlord to submit a copy of the Notice to End Tenancy in evidence. As well, the hearing package provided to the 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 she is asking to have this document support the eviction of the tenants.

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 find** the landlord has provided insufficient evidence to prove her claim. Furthermore, the landlord testified that she served the Notice on September 1, 2012. A landlord may not serve the Notice on the same day rent is due. Given the above, **I cancel** the Notice and order that the tenancy continue until ended in accordance with the *Act*.

The landlord has claimed for unpaid rent for September 2012, and for unpaid utilities for July 2012 and August 2012. At the start of the hearing, however, the landlord confirmed that September rent, and the utilities for July and August 2012, had been paid by the tenants, albeit late. As a result, **I dismiss** the monetary claim in full **without leave to reapply** as the landlord confirmed she has received payment.

As the landlord's claim did not have merit, **I do not** grant the landlord recovery of the filing fee.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 10, 2012

Residential Tenancy Branch