



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession, a monetary order, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only one Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenant with the Notice of Hearing and Application on December 6, 2012, by posting on the door. The Application was processed and scheduled for a hearing on November 15, 2012. The Landlords were supposed to serve the Tenant with these documents within three days of receiving them, or by November 18, 2012, and failed to do so.

Furthermore, the Landlords failed to provide copies of the 10 day Notice to End Tenancy for unpaid rent in evidence. The Landlords made an Application based on this 10 day Notice to End Tenancy; however, they have not submitted a copy of the Notice in evidence.

The Application form states that the Landlords must submit a copy of the Notice to End Tenancy 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 Landlords' claims, in particular when they are asking to have this document support the eviction of the Tenant and a monetary order.

The responsibility of proving a claim is on the person making the claim. As the Landlords failed to provide a copy of the Notice, I find the Landlords have insufficient evidence to prove this claim.

I further find the Landlords have provided insufficient evidence to prove they served the Tenant with the Notice of Hearing and Application for Dispute Resolution in accordance with the rules of procedure.

For these reasons I dismiss the Landlords' claims, with leave to reapply.

This decision is final and binding on the parties, except as 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: December 17, 2012.

Arbitrator
Residential Tenancy Branch