



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent.

Both parties were represented at the hearing.

The Landlord stated that on January 25, 2013 he personally served the Tenant with the Application for Dispute Resolution and Notice of Hearing. The Tenant acknowledged receiving these documents. The parties agree that no other documents were served as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent, pursuant to section 55 of the *Residential Tenancy Act (Act)*?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in September of 2012; that the Tenant is obligated to pay monthly of \$600.00; and that the Tenant has not paid rent for December of 2012, January of 2013, or February of 2013.

The Landlord stated that on January 09, 2013 he personally served the Tenant's daughter-in-law with a Ten Day Notice to End Tenancy for Unpaid Rent. The Tenant acknowledged receiving this notice from her 13 year old son on January 11, 2013.

The Tenant stated that she is at the hospital and does not have a copy of the Notice to End Tenancy with her.

The Landlord was advised that I did not have a copy of the Notice to End Tenancy before me, at which point he advised that his son emailed it to the Residential Tenancy Branch on January 09, 2013. When he was advised that it is unlikely the Notice would have been emailed to the Residential Tenancy Branch on January 09, 2013, given that

the Application for Dispute Resolution was not filed until January 25, 2013, he advised that it was delivered to the Residential Tenancy Branch “maybe two weeks ago”.

Analysis

I find that I am unable to enforce the Ten Day Notice to End Tenancy for Unpaid Rent, as I do not have a copy of that Notice in my possession and I am not, therefore, able to determine that the Notice has been properly completed.

It is sometime possible to enforce a Notice to End Tenancy when the parties can agree on the content of a Notice to End Tenancy. In these circumstances, the Tenant did not have a copy of the Notice to End Tenancy with her at the time of the hearing and she could not, therefore, accurately attest to the content of the Notice.

I find that the Landlord has submitted insufficient evidence to convince me that a copy of the Notice to End Tenancy has been to the Residential Tenancy Branch. I found that the Landlord’s testimony in this regard was contradictory and, therefore, unreliable. He initially stated that it was emailed and he later stated that it was delivered. I further note that the Landlord had difficulty understanding the difference between the Application for Dispute Resolution and the Notice to End Tenancy, and I am not convinced that he actually submitted a Notice to End Tenancy to the Residential Tenancy Branch.

Conclusion

I have been unable to determine the merits of the Notice to End Tenancy for Unpaid Rent and I therefore dismiss the Landlord’s application for an Order of Possession, 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: February 12, 2013

Residential Tenancy Branch

