



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing dealt with an application submitted by the landlord seeking an Order of Possession based on a Ten Day Notice to End Tenancy for Unpaid Rent that was not in evidence. The landlord was also seeking a monetary order for rent owed.

The applicant was present and participated in the hearing. Despite being served with the Notice of Hearing documents by registered mail sent on February 14, 2013, the respondent did not appear and the hearing was therefore conducted in the respondent's absence.

At the outset of the hearing, the landlord confirmed that the tenant has now vacated the rental unit and therefore no Order of Possession is required. However, the landlord still intends to pursue the monetary order for the rental arrears owed.

Issue(s) to be Decided

Is the landlord is entitled to a monetary compensation for rental arrears?

Background and Evidence

The landlord testified that this was a long term tenancy based on a verbal agreement and the rent charged was \$1,200.00 per month. The landlord testified that tenant fell into arrears and accrued a debt of over \$22,800.00 which is being claimed.

Analysis

Under section 46 of the Act, a landlord may terminate the agreement by giving a Ten Day Notice to End Tenancy for Unpaid Rent. The landlord gave verbal testimony that the notice was issued and served on the tenant. However, no copy of the notice was in evidence and no other evidentiary material was submitted to confirm that a tenancy with the respondent ever existed, nor to verify the monthly rental rate being charged under the tenancy agreement.

Section 59(2) of the Act states that an application for dispute resolution must be in the applicable approved form and include full particulars of the dispute and section 59(5) states that the application for dispute resolution may be declined if, in the dispute resolution officer's opinion the application does not disclose a dispute that may be determined or the application does not comply with section 59(2).

Section 62(4)(b) of the Act states that a dispute resolution officer may dismiss all or part of an application for dispute resolution if the application does not disclose a dispute that may be determined.

In the absence of a copy of the 10-Day Notice to End Tenancy for Unpaid Rent, I find that I am not able to proceed with this matter as the application does not disclose a dispute that may be determined and the application fails to comply with section 59(2) due to the missing 10-Day Notice, upon which the monetary claim is based.

For this reason I find that the landlord's application must be dismissed and I do so with leave to reapply. I make no findings on the merits of the application, nor the Notice.

I hereby dismiss the application with leave to reapply.

Conclusion

The landlord's application lacks sufficient details to determine the dispute and is 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: March 05, 2013

Residential Tenancy Branch

