



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Treaty Developments Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord appeared; the tenant did not appear.

Preliminary issue-

At the outset of the hearing I inquired of the attending agent for the landlord as to whether or not the landlord had filed any evidence in support of their application for dispute resolution as there was no evidence in the hearing file.

The attending landlord's agent, the resident manager, said that her manager from the head office informed her that he faxed the landlord's evidence to the Residential Tenancy Branch ("RTB"). That manager was not in attendance at the hearing.

Due to the statement of the landlord's agent, I searched the system for the landlord's evidence and none was found.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

Has the landlord submitted sufficient evidence to support their application for dispute resolution?

Background and Evidence

The landlord is seeking an order of possession for the rental unit due to unpaid rent pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") issued in accordance with section 46 of the Act; however, there was no evidence from the landlord contained in the hearing file and the landlord who was said to have submitted the evidence was not in attendance to confirm whether the evidence was faxed to the RTB in the time frame required by the Rules.

Additionally, the landlord is seeking monetary compensation; however the landlord failed to submit evidence supporting that claim.

Analysis and Conclusion

A Notice to End Tenancy can only be enforced if it complies with the requirements of section 52 of the Act. Without being able to review a copy of the Notice to End Tenancy that the landlord said was served on the tenant, I cannot conclude that the Notice is effective and therefore enforceable.

I therefore find that the landlord submitted insufficient evidence to show the tenant was issued a valid, enforceable 10 Day Notice to End Tenancy for Unpaid Rent and I therefore dismiss their application, including their request for a monetary award, 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* and is being mailed to both the applicant and the respondent.

Dated: May 29, 2013

Residential Tenancy Branch