



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OPR, MNR, FF

Introduction

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

The landlord appeared; the tenant did not appear.

Preliminary issue-

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

The landlord said that she brought a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") to the Residential Tenancy Branch ("RTB") office in which she filed her application for dispute resolution at the end of August 2013.

Due to the statement of the landlord, I searched the system for the landlord's evidence and none was found; however there was a note in the file made by the intake information officer that service was discussed and "evidence-August 28."

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 her 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 issued in accordance with

section 46 of the Act; however, there was no evidence from the landlord contained in the hearing file.

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.

The Dispute Resolution Rules of Procedure (Rules) 3.4 require to the extent possible, the applicant must file copies of all available documents, photographs, video or audio evidence at the same time as the application is filed. In this case the landlord filed her application for dispute resolution on July 31, 2013, and failed to file any supporting documentation. Additionally, the applicant is provided documentation when an application is filed explaining the dispute resolution process, including the timely submission of documentary evidence.

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 or Utilities and I therefore dismiss her application, including her 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: September 06, 2013

Residential Tenancy Branch

