



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNSD, MNDC, FF

Introduction

The landlord applies for an order of possession pursuant to a one month Notice to End Tenancy for cause dated August 8, 2013 and for a monetary award for unpaid October rent and loss of November rental income.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities, that the landlord is entitled to the relief he requests?

Background and Evidence

The rental unit is a one bedroom apartment in a five unit apartment building. The tenancy started around March of this year. There is no written tenancy agreement. The monthly rent is \$780.00 and the landlord holds a \$390.00 security deposit.

The landlord has received the October rent money directly from the welfare office and has deposited it, though he later unilaterally issued a receipt to the tenants marked for "use and occupation."

The landlord testified that he served the one month Notice to End Tenancy on the tenant Mr. S. in person on September 19th with a witness Mr. J.. The landlord was specifically asked why he took so long to served the Notice, dated August 8 with an effective date of September 9. In response, the landlord said the delay was because he was soft hearted.

The tenant Mr. S. testified that he had not been served with the Notice and only saw it as an evidentiary document sent with the application for dispute resolution.

In these circumstances I determined that the tenants had not been properly served with a Notice to End Tenancy and proceeded to render my decision orally.

During that rendering the landlord interjected to say he was mistaken and that he served the tenant Mr. T. personally with the Notice on August 8th. Mr. T. was given a second opportunity and again denied that service. The landlord's alleged witness was not available to testify.

Analysis

The landlord has not shown, on a balance of probabilities that he served he tenants with the one month Notice to End Tenancy under which he seeks an order of possession and so his application for an order of possession is dismissed. He is free to serve another Notice if he wishes.

The evidence does not show the landlord is owed October rent or that he will suffer a loss of rental income for November.

Conclusion

The landlord's application must be dismissed.

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: October 28, 2013

Residential Tenancy Branch

