



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPR, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for an Order of Possession based on cause and unpaid rent. The Landlord also applied for a Monetary Order for: unpaid rent; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement; and to recover the filing fee for the cost of making the Application.

The Landlord and Tenant appeared for the hearing and provided affirmed testimony. The Landlord testified that the Notice of Hearing and a copy of the Application was served to the Tenant by posting the documents to the Tenant’s door which the Tenant confirmed receipt of.

With respect to the Landlord’s application for an Order of Possession, I find that the Landlord served the Tenant in accordance with section 89(2)(d) of the Act. With regard to the Landlord’s Application for a Monetary Order for unpaid rent, section 89(1) of the Act does not allow an applicant to serve the respondent with the Application by posting these documents to the door. As this method of service is not acceptable under Section 89(1) of the Act when making a monetary claim, I dismiss the monetary portion of the Landlord’s Application with leave to reapply.

Preliminary Matters

The Landlord provided for the hearing two 10 Day Notices to End Tenancy for Unpaid Rent or Utilities, one served to the Tenant on February 14, 2014 and the other on March 20, 2014. However, both notices do not show the address of the rental suite and are not accompanied by the second page of the approved form. The Landlord was unable to confirm whether he had served the second page of each notice to the Tenant.

The Landlord testified that he had served these to the Tenant by posting them to the Tenant's door and provided a picture of one of the notices, without the second page, indicating a person attaching a document to a door.

The Tenant testified that he had not received any of these notices for unpaid rent and would have disputed them had he known about them.

The Landlord testified that he had also served the Tenant with a 1 Month Notice to End Tenancy for Cause on February 26, 2014. The Landlord provided a picture of the first page of this notice attached to a door. The Landlord did not provide a copy of page 2 of this notice and the reasons why it had been issued to the Tenant.

When the Landlord was questioned on the reasons for issuing the Notice, the Landlord testified that it was given because he needed the rental suite for family use and for repeated late payments of rent. However, the Landlord provided insufficient evidence of the Tenant repeated paying rent late.

The Tenant denied receiving this notice and without page 2 of this notice, I was unable to determine the exact reasons the Landlord was seeking to end the tenancy. The Tenant denied being in any rent arrears.

Analysis

Section 52 of the Act states that in order to be effective, a notice to end tenancy must give the address of the rental unit to which it applies. However Section 68 of the Act allows the arbitrator to amend the notice if satisfied that the person receiving the notice should have known the information that was omitted and it is reasonable to amend it.

In this case, I find that the two notices to end tenancy for unpaid rent did not comply with Section 52 of the Act as they did not contain the address of the rental unit. The Tenant denied receipt of the notice and I am not satisfied that the Landlord served both pages of the notice which is required as this contains essential information about the rights and obligations of the Tenant in relation to the notice.

In addition, while the Landlord has provided a photograph of one notice being attached to the door, this is not sufficient to satisfy me that both pages had been served to the Tenant. As a result, I find that it is not reasonable to amend these notices under Section 68 of the Act.

In relation to the notice to end tenancy for cause, again the Landlord did not provide a copy of the second page which would indicate the reasons for ending the tenancy and I am not satisfied that both pages were correctly served to the Tenant as the Tenant denies receipt of this notice on February 26, 2014.

In addition, from the evidence provided, it appears that the Landlord wants to use the notice to end tenancy for cause, for Landlord's use of the property, which is an improper use of the one month notice. The Landlord cannot avoid his obligation under the Act to give the appropriate notice to end tenancy. The Landlord was provided with information in relation to the two month notice to end tenancy, pursuant to Section 49 of the Act, which would be an appropriate notice in these circumstances.

Based on all of the foregoing, I find that it is appropriate to set aside the two notices to end tenancy for unpaid rent and the notice to end tenancy for cause, pursuant to Section 68(2)(b) of the Act, as these are no longer valid notices.

However, the Landlord is at liberty to issue new notices to end tenancy based on the appropriate circumstances of the tenancy and the notices must be appropriate under the Act and complete in form and content. After this point the Landlord and Tenant are at liberty to make Applications in relation to the notices as prescribed by the Act.

Conclusion

For the reasons set out above, I dismiss the Landlord's Application.

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: April 11, 2014

Residential Tenancy Branch

