



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPB, MNR, MNSD, FF, O

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; to apply the security deposit towards her monetary award; to recover the cost of the filing fee from the Tenant; and for "other" orders.

The Landlord's agent gave affirmed testimony at the Hearing. The Tenant did not sign into the Hearing, which remained open for 35 minutes.

Preliminary Matters

The Landlord's application was amended to indicate the correct first, middle and last name of the Landlord.

The Landlord's application was also amended to remove one of the Respondents because the Landlord does not know his last name.

I advised the Landlord's agent that there was no copy of the Notice to End Tenancy on the file. She testified that she uploaded the Notice when she filed the Landlord's Application electronically. I advised her that this was not possible, and she replied that she had faxed it to the Burnaby Residential Tenancy Branch office. She stated that she had confirmation that it was received.

I asked the Landlord's agent if she had served the Tenant with the Notice of Hearing package and a copy of the Landlord's documentary evidence. She told me that she served the Tenant on February 26, 2014. I explained to the Landlord's agent that the Application was filed on April 3, 2014, and therefore it was not possible to serve the Tenant with package on February 26, 2014. The Landlord's agent began to get agitated at this point and was increasingly rude for the remainder of the Hearing. She testified that the Tenant was served with the documents 10 days after the Landlord's application was filed.

I explained to the Landlord's agent that I could not uphold a Notice to End Tenancy unless it was a valid Notice. I asked the Landlord's agent to describe what was written on the Notice to End Tenancy. During this course of questioning, the Landlord's agent

advised that the Notice did not have an effective end of tenancy date. I explained that it was not a valid Notice. Section 52(c) of the Act provides that in order to be effective, a notice to end tenancy must state the effective date of the notice.

I explained to the Landlord's agent that I was dismissing the Landlord's application because of:

- insufficient proof of service; and
- an invalid Notice to End Tenancy.

I encouraged the Landlord's agent to seek procedural advice from an Information Officer before issuing another Notice to End Tenancy to ensure it complied with the requirements of the Act. I also encouraged her to seek advice with respect to filling out an Application and service of documents.

At this point in the Hearing, the Landlord's agent became argumentative and I ended the call.

Conclusion

The Landlord's application for an Order of Possession based on the Notice to End Tenancy issued February 26, 2014, is dismissed. The Landlord may issue another Notice to End Tenancy, if she wishes. The remainder of the Landlord's application 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: May 28, 2014

Residential Tenancy Branch

