



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Has the Landlord served a valid notice to end tenancy?

Background and Evidence

The Agent states that the Tenant was served with a 10 day notice for unpaid rent (the “Notice”) by posting it on the door on September 4, 2014. The Agent states that the Landlord and his wife served the Notice. No affidavit of service was provided. The Tenant states that no Notice was received and that the only document received was the Landlord’s application.

Analysis

Section 46 of the Act provides that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy. Given the lack of an affidavit of service of the Notice and considering that neither the Landlord nor any witness to service of the Notice was present to provide oral evidence on the service, I find that the Landlord has not substantiated that the Tenant was served with the Notice. I therefore dismiss the application with leave to reapply.

Conclusion

The 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: November 3, 2014

Residential Tenancy Branch

