



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on December 30, 2014, to obtain an Order of Possession for Landlord's use of the property.

The hearing was conducted via teleconference and was attended by the Landlord's Agent who gave affirmed testimony that she personally served the Tenant with Notice of their Application and the Dispute Resolution Hearing on December 30, 2014.

Based on the submissions of the Landlord's Agent, I find the Tenant was sufficiently served notice of this proceeding, in accordance with section 89 of the Act. Therefore, I proceeded in the Tenant's absence.

Issue(s) to be Decided

Has the Landlord proven entitlement to an Order of Possession?

Background and Evidence

The Landlord's Agent testified that they purchased the property in July 2014 and at that time the Tenant was already occupying the property. When the property transferred to the new owner they were not provided with documents relating to this tenancy.

The Landlord's Agent stated that they served the Tenant a 2 Month Notice to End Tenancy for Landlord's Use on November 1, 2014. She confirmed that they did not provide a copy of that Notice as evidence to the Residential Tenancy Branch or the Tenant.

Analysis

A party who makes an application for dispute resolution has the burden to prove their claim. The hearing package contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to the Landlord.

The Notice to End Tenancy document is not a mere technicality. In fact, it is hard to imagine another document being more relevant or material to the Landlord's application, in particular when they are asking to have this tenancy ended and the Tenant evicted based on that Notice.

The responsibility of proving that a valid Notice to End Tenancy has been served upon the Tenant lies with the Landlord. As the Landlord failed to provide a copy of the Notice, I find they have provided insufficient evidence to prove this tenancy should end in accordance with at Notice. Therefore, I dismiss the claim with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's claim, with leave to reapply.

No findings of fact or law have been made with respect to a 2 Month Notice to end tenancy issued November 1, 2014.

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: January 22, 2015

Residential Tenancy Branch

