



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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; and
3. 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

Is the notice to end tenancy effective?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The Parties are disputing ownership of the unit. Both Parties indicate that they own the unit. The Applicant confirmed that the Respondent was served with a 10 day notice to end tenancy for unpaid rent in person (the “Notice”) on November 16, 2014. The Notice does not contain an effective date for the Respondent to move out of the unit.

Analysis

Section 52 of the Act provides that in order to be effective a notice to end tenancy must include an effective date. As the Notice does not contain any effective date I find that the Notice is of no effect in ending the tenancy.

Section 55 of the Act provides that a landlord may make an application for an order of possession where a notice to end tenancy has been given to the Tenant. This section requires that an effective notice to end tenancy be given. As the Notice is not effective, I find that the Landlord is not entitled to an order of possession and I dismiss this claim. The Landlord may issue a new notice to end tenancy in order to pursue an order of possession. As the Landlord's claim for unpaid rent is related to the ineffective Notice, I dismiss this claim with leave to reapply.

Conclusion

The claim for an order of possession is dismissed. The claim for a monetary order 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: January 05, 2015

Residential Tenancy Branch

