



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on March 21, 2015, Canada post tracking numbers were provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

Issue to be Decided

Is the landlord entitled to an order of possession

Background and Evidence

The landlord testified that they served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"), issued on February 1, 2015. The landlord stated that they accidentally transposed the numbers on the date the Notice was issued

as it was not issued on January 2, 2015, it was issued on February 1, 2015. The landlord testified that the Notice was sent by registered mail.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Under section 46 (1) of the Act, the 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 effective on a date that is not earlier than 10 days after the date the tenants receive the Notice. A Notice issued under section 46 of the Act, must comply with section 52 of the Act.

I have reviewed the Notice issued by the landlord, although I accept the landlord accidentally transposed the date it was issued and an amendment would be appropriate.

However, in order for the Notice to be effective the Notice must state the effective date when the tenants must move out. In this case the effective date was not completed by the landlord. Therefore, I find the Notice has not been completed in accordance with section 52 of the Act. Therefore, I find the Notice issued on January 2, 2015 and amended to February 1, 2015, is not a valid Notice under the Act.

The landlord is at liberty to issue a new Notice in accordance with section 46 and 52 of the Act.

Conclusion

The landlord's application is dismissed.

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 27, 2015

Residential Tenancy Branch

