



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNDC, MNR, MNSD, FF

Introduction and Preliminary and Procedural Matters

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for an order of possession pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice"), for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation and for unpaid rent, for authority to keep all or part of the tenant's security deposit, and for recovery of the filing fee paid for this application.

The landlord attended the hearing; however, the tenant did not attend. The landlord submitted that he served the tenant with his application and notice of hearing by hand delivery on August 14, 2015.

While I accept the landlord served the tenant his application and notice of the hearing in a manner complying with section 89(1) of the Act, the landlord was questioned about the Notice, as there was not a copy of this or any document submitted into evidence. The landlord submitted that he hand delivered the Notice to the tenant on May 15, 2015. The landlord submitted further that he did have a copy of the Notice with him at the hearing and I then questioned him about the details of the Notice. The landlord did provide the information about the Notice.

In response to my question, the landlord stated he could fax a copy of the Notice to me, was given until the close of office hours the day of the hearing to do so, and I did receive the Notice by the end of the business day.

The landlord was informed that if the evidence supplied at the hearing corresponded with the information on the Notice, when received, I would consider his application. I therefore allowed this evidence of the landlord.

Analysis and Conclusion

Section 2.5 of the Dispute Resolution Rules of Procedure requires that an applicant, when requesting an order of possession, must submit with their application a copy of the Notice upon which the request is made. In this case, the landlord did not provide a copy of the Notice, but was allowed the opportunity to testify about the Notice and fax a copy after the hearing.

Section 46(2) of the Act requires that a notice to end a tenancy due to unpaid rent must comply with section 52 of the Act, which, in this case, is a 2 page document.

After reviewing the Notice sent by the landlord, as I received only the first page of a 2 page Notice, I determined that there was no evidence before me that the landlord served the tenant with the 2nd page of the 2 page Notice. It is on the 2nd page that instructions to the tenant as to the consequences or procedure after being the Notice are contained.

I therefore find the Notice did not conform to the Act, or that there was sufficient evidence to prove that the landlord served the tenant with a complete copy of the Notice.

I therefore find that the landlord submitted insufficient evidence to show the tenant was issued a valid, enforceable 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and I therefore dismiss his application, including his request for a monetary award, 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: October 16, 2015

Residential Tenancy Branch

