



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession for unpaid rent or utilities, to end the tenancy early, and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the call with the landlord's spouse and a property manager to assist. However, despite being served with the Landlord's Application for Dispute Resolution and notice of this hearing, no one for the tenant attended. The landlord stated that the hearing package containing the application and notice of hearing were served to the tenant personally on September 28, 2015.

The landlord also advised that the tenant moved out of the rental unit on October 7, 2015 and the landlord seeks to keep the security deposit. The tenant has not provided the landlord with a forwarding address.

Analysis

The *Residential Tenancy Act* states that a person who makes a claim must serve the respondent within 3 days of making the application. In this case, the landlord served the hearing package 5 days after making the application.

The landlord's request to keep the security deposit is not contained in the application, and therefore, I cannot make an order that the landlord be permitted to keep it. The landlord must make an application for dispute resolution to keep it within 15 days of the date the landlord receives the tenant's forwarding address in writing. If the tenant does not provide a forwarding address in writing within a year from the date the tenancy ended, the landlord does not have to return the security deposit.

Since the tenancy has ended, I dismiss the landlord's application for an Order of Possession.

The landlord has not applied for any other relief, and the landlord is at liberty to make a claim for unpaid rent and to keep the security deposit, but the landlord must know where to serve the tenant and then must serve the tenant within 3 days of making the application.

Since the landlord has not been successful with the application the landlord is not entitled to recovery of the filing fee.

Conclusion

For the reasons set out above, the landlord's application is hereby 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: November 24, 2015

Residential Tenancy Branch

