



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for an order of possession based on a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), and to recover the cost of the filing fee.

The landlord attended the teleconference hearing. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application"), and documentary evidence were considered. The landlord testified that the Notice of Hearing and Application were served on the tenant by personal service on October 26, 2015 at 3:00 p.m. at the rental unit and that the tenant accepted the package. Without any evidence to prove to the contrary, I accept that the landlord served the tenant as claimed by the landlord. The landlord stated that the tenant continues to occupy the rental unit. The landlord did not serve any documentary evidence in support of his Application.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The landlord confirmed that he did not have a copy of the 1 Month Notice before him during the hearing as he did not make a copy of the 1 Month Notice before serving the tenant with the 1 Month Notice. In addition, the landlord did not submit a copy of the 1

Month Notice in evidence in support of his Application for an order of possession based on the 1 Month Notice.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – The landlord confirmed that he did not make a copy of the 1 Month Notice and therefore did not have it before him to provide testimony regarding. Furthermore, the landlord failed to submit a copy of the 1 Month Notice in evidence in support of his application for an order of possession.

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 claim, in particular when the landlord is seeking to evict a tenant as a result of the 1 Month Notice.

The responsibility of proving a claim is on the person making the claim. As the landlord failed to provide a copy of the 1 Month Notice, and was unable to speak about the details of the 1 Month Notice during the hearing as he had not kept a copy for himself either, I find the landlord has provided insufficient evidence to prove his claim. The landlord's application is dismissed as a result.

The landlord is not entitled to the recovery of the cost of the filing fee.

Conclusion

The landlord's application is dismissed due to insufficient evidence. The tenancy continues until ended in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 17, 2015

Residential Tenancy Branch

