



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing by conference call and gave affirmed testimony. The landlord's agent (the landlord) stated that the notice of hearing package was served to the tenant by Canada Post Registered Mail on February 17, 2016. The tenant's agent (the tenant) confirmed receipt of the notice of hearing package in this manner.

Preliminary Issue

The landlord stated that the tenant was served with the late evidence package on February 19, 2016 by placing it the tenant's mail slot. The tenant disputed this claim stating that no late evidence was received from the landlord. The landlord stated that at present that she did not have any supporting evidence to show that the tenants were served with the late evidence. I find on a balance of probabilities that the landlord has failed to provide sufficient evidence to satisfy me that the tenants were served with the landlord's submitted documentary evidence. I also note for the record that the 8 pages of submitted late evidence package by the landlord on February 29, 2016 is of such poor quality that the only legible is the 2 page typed submissions. The remaining 6

pages of photographs of documents are of such poor quality that no details of each document are legible. The landlord's submitted late documentary evidence is excluded and shall not be considered for this hearing.

The landlord provided affirmed testimony that a 10 Day Notice for Unpaid Rent (the 10 Day Notice) dated January 19, 2016 was served to the tenants in person on January 19, 2016. The 10 Day Notice stated that the tenants failed to pay rent of \$1,250.00 that was due on January 1, 2016 and displayed an effective end of tenancy date of January 19, 2016. The tenant disputed this stating that no 10 Day Notice was served to them. The landlord is unable to provide any evidence to support the claim of service in this manner. I find on a balance of probabilities that the landlord has failed to provide sufficient evidence to satisfy me that the tenants were served with the 10 Day Notice as per sections 88 of the Act. On this basis, the landlord's application for an order of possession based upon the 10 Day Notice dated January 19, 2016 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: March 04, 2016

Residential Tenancy Branch

