



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: OPL

Introduction

This matter was heard by conference call in response to a Landlord's Application for Dispute Resolution (the "Application") made on January 27, 2016 for an Order of Possession for the Landlord's use of the property.

The Landlord appeared for the hearing and provided affirmed testimony. However, there was no appearance by the Tenant during the 23 minute duration of the hearing. Therefore, I turned my mind to the service of the documents for this hearing by the Landlord to the Tenant.

The Landlord testified that she served the Tenant with a copy of the Application and the Notice of Hearing documents to the Tenant's rental unit which was a mobile home by registered mail on February 3, 2016. The Landlord provided a copy of the Canada Post tracking number and receipt as evidence for this method of service which shows that the documents were returned to the Landlord marked as "Refused".

Section 90(a) of the *Residential Tenancy Act* (the "Act") provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a refusal or neglect to pick up mail. As a result, based on the undisputed evidence of the Landlord, I find the Tenant was deemed served with the required documents on February 8, 2016 pursuant to the Act.

Preliminary Findings

The Landlord in this case was seeking to end the tenancy through a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "Notice"). The first page of the Notice was provided into evidence by the Landlord. When the Landlord was asked about the second page of the Notice which details the exact reason for ending the tenancy, the Landlord explained that she did not have a copy of this as she gave the original to the Tenant. The Landlord also testified that the reason for ending the tenancy she had elected on the second page of the Notice was because she wanted to move the mobile

home. The Landlord was informed that this was not one of the reasons that is detailed as a choice on the Notice and without having the second page of the Notice, I was unable to make any legal findings on it.

Furthermore, Section 52(d) of the Act requires that a Notice must stipulate the grounds for ending the tenancy. Therefore, I was not satisfied that the Landlord had served the Tenant with a valid Notice and without this evidence being before me I was unable to grant the Landlord an Order of Possession.

However, the Landlord testified that the Tenant was in rental arrears and was going to pursue the ending of the tenancy on this basis. Therefore, the Landlord withdrew her Application which I allowed her to do. The Landlord is at liberty to issue the Tenant with a notice to end tenancy that complies with the Act and seek an Order of Possession thereafter. This file is now closed as it was withdrawn by the Landlord.

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 15, 2016

Residential Tenancy Branch