



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR

Introduction

On June 1, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession and a monetary order for unpaid rent. The matter was set for a conference call hearing at 9:00 a.m. on this date. The Landlord and Tenant attended the hearing. The Landlord and Tenant were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to an Order of Possession due to the Tenant being repeatedly late paying rent?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on August 5, 2015, as a month to month tenancy. Rent in the amount of \$650.00 is payable on the first of each month. The Tenant paid a \$300.00 security deposit to the Landlord.

The Landlord testified that the Tenant has not paid his rent, is repeatedly late paying rent, and owes the Landlord \$850.00 for rent.

The Landlord testified that she served the Tenant with the following two Notices To End Tenancy:

- 10 Day Notice To End Tenancy For Unpaid Rent (the 10 Day Notice) dated May 21, 2016, with an effective date of May 30, 2016.
- 1 Month Notice to End Tenancy For Cause (The 1 Month Notice) dated June 1, 2016, with an effective date of July 1, 2016.

The Landlord testified that she served the 10 Day Notice to the Tenant by handing it to him on May 30, 2016. The Landlord testified that she served the 1 Month Notice to the Tenant by handing it to him on June 1, 2016.

The Tenant testified that the Landlord never served him with any of the Notices to End Tenancy. The Tenant testified that the only Notice he received was the Notice of the Hearing that he received on June 1, 2016.

On page two of the Landlord's Application for Dispute Resolution, the information for Landlords who are seeking an Order of Possession states:

When the dispute involves a Notice To End Tenancy, the Notice to End Tenancy must be given to the Tenant before applying for Dispute Resolution and the Notice To End Tenancy must be submitted to the Residential Tenancy Branch.

The Landlord failed to provide a copy of the 10 Day Notice, and the 1 Month Notice, to the Residential Tenancy Branch.

The Landlord did not provide any documentary evidence to support her Application for an Order of Possession or a monetary order for unpaid rent.

The onus of proof is on the Landlord when a Notice to End Tenancy is issued.

Section 46 of the Act states that a Landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice. A Notice under this section must comply with the form and content requirements of section 52.

Section 47 of the Act states that a Landlord may end a tenancy by giving notice to end the tenancy if the Tenant is repeatedly late paying rent. A Notice under this section must comply with the form and content requirements of section 52.

Analysis

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that there is insufficient evidence that the Landlord issued the Tenant a 10 Day Notice to End Tenancy, or a 1 Month Notice To End Tenancy.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

The Landlord's application is dismissed and the tenancy continues until ended in accordance with the Act.

Conclusion

The Landlord's application is dismissed. The tenancy continues until ended in accordance with the Act.

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: July 04, 2016

Residential Tenancy Branch