



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction and Preliminary Matter

This hearing convened as a result of an Application for Dispute Resolution by the Landlord for an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlord and the Landlord's spouse, R.B., appeared at the hearing. R.B. gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

R.B. testified that they served the Tenant with the Notice of Hearing and their Application on September 19, 2016 by registered mail. Under the *Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of September 24, 2016.

The only evidence submitted in support of the Landlord's claim was a copy of the registered mailing receipt and tracking number.

The Landlord failed to provide in evidence a copy of the 10 Day Notice which was apparently issued on August 17, 2016 (the "Notice"). When I asked the Landlord, or her spouse, R.B., to provide testimony as to the contents of the Notice, including the amount outstanding at the time it was issued, as well as the month(s) related to the missed payment(s), R.B. could not provide this information. He testified that no figure was included on the Notice as to the outstanding amounts for rent or utilities.

Further, on the Application the Landlord made a monetary claim for outstanding utilities in the amount of \$200.00 per month. R.B. confirmed that no written tenancy agreement existed. The Landlord also failed to provide copies of the utility bills in evidence to support this claim.

Rule 3.1 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

3.1 Documents that must be served

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

The Landlord, in failing to provide a copy of the Notice, the utility invoices as well as a detailed calculation of any monetary claim being made, failed to comply with Rule 3.1 as set out above.

Further, for a Notice to be effective, it must comply with section 52 of the *Residential Tenancy Act*. This section is mandatory and reads as follows:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The Landlord applied for an Order of Possession and monetary compensation based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. According to R.B.'s testimony, the Notice failed to indicate the amounts outstanding. Section 46 of the *Act* provides that a Tenant may make an application to dispute a Notice to End Tenancy or *pay the outstanding amount* within five days of service of same. Since the Notice did not indicate what amount was outstanding, the Tenant was not provided sufficient details as to what amount he was to pay to cancel the Notice.

As I informed the Landlord during the hearing, because the Notice does not provide details as to the amounts outstanding, it is ineffective.

Accordingly, the Landlord's Application is dismissed. The tenancy will continue until ended in accordance with the *Residential Tenancy Act*.

This decision is final and binding on the parties, except as 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: October 24, 2016

Residential Tenancy Branch