



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THIRD ESTATE LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This matter dealt with an application by the Landlord to end a tenancy for cause, to obtain an Order of Possession and to recover the filing fee for this proceeding.

The Landlord said she filed the application on July 25, 2018 and her manager served the Tenant with the Application and Notice of Hearing (the “hearing package”) by personal delivery shortly after July 26, 2018 but she was unsure of the exact date. The Landlord said she did not have any evidence to prove or support that the Hearing Package was actually served to the Tenant.

The Tenant said he did not receive the Landlord’s hearing package, but because he did receive the One Month Notice to End Tenancy for Cause dated March 23, 2018 he went to the Residential Tenancy Branch and received the Notice of Hearing. Consequently the Tenant was aware of the hearing but he did not know the contents of the Landlord’s application.

Based on the lack of evidence from the Landlord and the Tenant’s testimony that he did not receive the Landlord’s Hearing Package., I find that the Tenant was not served with the Landlord’s hearing package as required by s. 89 of the Act. Consequently, I dismiss the Landlord’s application due to lack of evidence that service of the Application and Notice of Hearing (the “Hearing package”) was completed in accordance with section 89 of the Act.

As the Landlord was unsuccessful in this matter I order the Landlord to bear the cost of the filing fee which has already been paid.

Conclusion

The Landlord's application is dismissed without leave to reapply.

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: September 17, 2018

Residential Tenancy Branch