



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord to end the tenancy, for an Order of Possession and a Monetary Order for unpaid rent, for compensation for loss or damage under the Act or tenancy agreement, to recover the filing fee for this proceeding and to keep the Tenants' security and pet deposits in partial payment of those amounts.

The Landlord's evidence says he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on December 11, 2018. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented.

At the start of the hearing it was discovered that the Landlord did not issue a Notice to End Tenancy that supports this application. The Tenant said the Landlord issued a 10 Day Notice to End Tenancy for unpaid rent in November 2018 and the Landlord did not appear at the hearing for that Notice, so his application was dismissed. The Tenant said they have not received a 10 Day Notice to End Tenancy for Unpaid Rent for December 2018 so they could not submit a defence.

The Landlord said he thought he was doing as he was told by the Government Agent by submitting this application. The Landlord continued to say that he did not issue a 10 Day Notice to End Tenancy for Unpaid Rent in December 2018 but he did issue a 10 Day Notice to End Tenancy for unpaid rent on January 2, 2019. The Landlord said the Tenants have not paid their rent for November, December and January. The Landlord said he made the application on December 11, 2018.

The Landlord's Notice to End Tenancy issued in November 2018 was dealt with at the previous hearing. Now the Landlord has made another application on December 11, 2018, but no new Notice to End Tenancy was issued to the Tenants in December 2018. The Landlord's application is not based on a Notice to End Tenancy. Section 44 of the Act indicates the how to end a tenancy. An application to end an end tenancy must be

based on a valid Notice to End Tenancy. In this case there is no valid Notice to End Tenancy issued in December 2018 to base this application on. Consequently I dismiss the Landlord's application for lack of a Notice to End Tenancy.

Further the Landlord issued a new 10 Day Notice to End Tenancy for Unpaid rent dated January 2, 2019 which appears to be a valid notice. The Landlord is at leave to make an application based on this Notice to End Tenancy.

Conclusion

The Landlord application is dismissed as no Notice to End Tenancy was issued prior to this application.

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: January 14, 2019

Residential Tenancy Branch