



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an application for dispute resolution by the landlord pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee.

At the start of the hearing the landlord informed me that she was granted an order of possession at a prior hearing that took place on December 17, 2019. During that hearing the parties came to an agreement and the tenant agreed to move out by February 29, 2020. The landlord stated that she was seeking a monetary order for unpaid rent.

Preliminary and procedural matters

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

The landlord made this application on November 22, 2019. The landlord's agent stated that she served the tenant with the notice of hearing in person on December 09, 2019. The agent also stated that she included evidence for a prior hearing in the package.

The landlord did not file any proof of service of the hearing package to the tenant and relied on her sworn testimony. The tenant did not attend the hearing.

Even if I accept the landlord's agent's testimony that she served the notice of hearing on the tenant, I find that by her own admission, the tenant was not served with the landlord's evidence for this hearing. Based on the testimony of the landlord's agent and in the absence of the tenant, I am not satisfied that the tenant was properly served with the notice of hearing and evidence package, pursuant to section 88 of the *Residential Tenancy Act*.

In addition, the landlord filed a copy of a 10 day notice to end tenancy dated November 13, 2019. The details of the notice were faint and illegible.

The landlord did not file a copy of a tenancy agreement. The landlord stated that the rental unit was occupied by two tenants and that this tenant paid a portion of rent. In the absence of a written tenancy agreement, I am unable to determine the relationship between the two tenants and the tenant's share of rent. I am also unable to determine whether the tenant pays rent directly to the landlord or to his roommate.

Based on the above, I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application is dismissed with 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: January 21, 2020

Residential Tenancy Branch