



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was assisted by a friend.

As both parties were present service was confirmed. The parties each confirmed receipt of the respective materials. Based on the testimonies I find that each party was served with the relevant materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testified that the tenant has not been paying rent and that they issued a 10 Day Notice to End Tenancy for Unpaid Rent at some point. The landlord did not provide a copy of the 10 Day Notice into evidence, nor did they provide testimonial evidence on when this tenancy began, the amount of the monthly rent, or the amount of the arrear. The landlord simply claimed that the tenants have been living in the rental unit for "a long time" without paying.

Analysis

The burden of proof on a balance of probabilities lies with the applicant.

In the present case the landlord seeks an Order of Possession and the onus lies with them to establish that they have issued a proper Notice to End Tenancy that conforms to the form and content requirements of the Act and that there is an evidentiary basis for the tenancy to end.

The landlord provided little cogent evidence. The landlord failed to provide cursory information regarding the tenancy or the alleged arrear despite being asked directly to provide the information. The landlord did not submit any documentary evidence and failed to submit a copy of the 10 Day Notice which they purport to have issued on the tenant, witnessed by a family member.

I find that the landlord's terse testimony and absence of any details or documentary evidence fails to meet their evidentiary burden. I am not satisfied that there is any basis for this tenancy to end or that a proper 10 Day Notice was issued. Accordingly, I dismiss the landlord's application.

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: March 2, 2020

Residential Tenancy Branch