



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord filed under the Residential Tenancy Act, (the “*Act*”) to enforce a One Month Notice to End Tenancy for Cause, (the “*Notice*”) dated October 18, 2022, and to recover the filing fee for this application. The matter was set for a conference call.

The Landlord and their spouse (the “Landlord”) attended the hearing and were affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that they served the Application for Dispute Resolution to the Tenant by Canada Post registered mail, sent on November 23, 2022, a tracking number was provided as proof of service. I find that the Tenant has been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision

Issues to be Decided

- Is the Landlord entitled to an order of possession, pursuant to section 47 of the *Act*?
- Is the Landlord entitled to the recovery of the filing fee for this application?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Tenancy agreement shows that this tenancy started on April 1, 2022, as a month-to-month tenancy. Rent in the amount of \$3,000.00 is to be paid by the first day of each month, and the Tenant paid the Landlord a \$1,500.00 security deposit. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

Landlord testified that they served the Notice to the Tenant on October 18, 2022, by attaching it to the Tenant's door or other conspicuous place. The Landlord also testified that the local police also served a copy of this Notice personally to the Tenant. Recorded on the Notice was an end of tenancy date of November 18, 2022. The Landlord submitted a picture into documentary evidence as proof of service.

The Landlord testified that they are seeking an order of possession to enforce their Notice.

Analysis

Based on the testimony, the documentary evidence before me, and on a balance of probabilities, I find as follows:

I have reviewed the Landlord's testimony and documentary evidence regarding the service of the Notice to end tenancy. The Landlord has claimed that the Notice was served two ways, the first by posting it to the front door of the rental unit and the second by personal service by local police. I note that the Landlord has not submitted any documentary evidence to substantiate the service by police I am left with only the door service to consider. I have reviewed the picture submitted into documentary evidence by the Landlord and I note that this picture depicts a hand holding the Notice in front of a door frame. However, this picture does not show the Notice attached to the door, nor does it show an indication of the address associated with the door frame depicted in this picture. After reviewing this picture, I find this documentary evidence to be insufficient to prove service of the Notice to end tenancy that I have before me in these proceedings.

Therefore, in the absence of further supporting evidence to support the service of this Notice to the Tenant, I find that the Landlord has not provided sufficient evidence to my satisfaction to prove service of the Notice to end tenancy. Consequently, I dismiss the Landlord's claim to enforce this Notice to end tenancy in its entirety.

Conclusion

I dismiss the Landlord's application in its entirety.

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 13, 2023

Residential Tenancy Branch