



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPC

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on April 18, 2023. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause (the Notice).

Both parties attended the hearing. The Tenant acknowledged receipt of the Landlord's Notice of Dispute Resolution Proceeding package, but stated that no evidence was included in that package. The Landlord stated he included his evidence as part of that package, but was unable to demonstrate what he included in the package with any corroborating evidence, such as photos of evidence included, or photos of the package he sent. The Landlord did not provide sufficient clarity on this matter in the hearing. I find the Tenant has been sufficiently served with the Notice of Dispute Resolution Proceeding but I am not satisfied, without further evidence from the Landlord, that he served the Tenant with any of his evidence. I find the documentary evidence submitted by the Landlord is not admissible and will not be considered further.

The Tenant did not submit any documentary evidence.

Both parties were given a full opportunity to be heard, to present evidence and to make submissions. 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.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

Background and Evidence

The Landlord stated that he posted the Notice to the Tenant's door on October 18, 2022. The Landlord provided a proof of service document to show this document was served but the Tenant denies being served with any Notice.

The Tenant stated that not only did he not receive any Notice in October 2022, but he also never received a copy as part of the Landlord's evidence, so the Tenant stated he has no idea what this eviction is about.

The Landlord spoke to several issues with the Tenant's cleanliness but the Tenant denied any such issues.

Analysis

In the matter before me, the Landlord has the onus to prove that the reason in the Notice is valid.

In this case, I find it important to note that the Landlord's documentary evidence for this hearing, including the Notice he states he issued, has not been sufficiently served as part of this proceeding and it is not admissible. As such, I find I do not have a valid Notice provided into evidence to consider. I hereby cancel the Notice, issued October 18, 2022.

I have made no findings on the merits of the Notice, and if the Landlord wishes to pursue eviction, he is entitled to issue a new Notice. However, I encourage the parties to attempt to resolve matters on their own first.

Conclusion

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

The Landlord must re-issue a valid Notice, should he decide to pursue eviction.

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: April 24, 2023

Residential Tenancy Branch