



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MND, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, compensation for damage to the rental unit, to retain all or part of the security deposit, and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord entered the hearing 8 minutes after the scheduled start time.

The landlord provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant via registered mail at the address noted on the Application. A Canada Post tracking document for each tenant was provided as evidence of service; however it took the landlord a considerable period of time to locate the receipt which indicated the mail was sent on April 24, 2012. I then found that each tenant had been served with the hearing package on the fifth day after mailing.

The landlord submitted evidence to the Residential Tenancy Branch that was not served to the tenants. Therefore, I considered only the 2 documents that had been given to the tenants; a copy of a Notice to end tenancy for unpaid rent issued on May 3, 2012, and a mutual agreement ending tenancy signed on March 11, 2012.

The female tenant entered the conference call thirty-three minutes after the hearing had commenced. At this point the tenant provided affirmed testimony that she had received the Notice of hearing only; that the application was not served; she did not receive any evidence. The male respondent was present but did not participate in the hearing.

At this point the landlord indicated that he understood he had made an error and did not dispute the tenant's submission that he had failed to serve copies of the application.

Therefore, based upon the tenant's undisputed testimony that she had not been given a copy of the application for dispute resolution, setting out the landlord's claim, I dismissed the application with leave to reapply. The respondents must be properly informed of the claim being made and the landlord has failed to prove that he did so.

Further, the landlord testified that on April 24, 2012, the tenants were served with a copy of a Notice to end tenancy for unpaid rent issued on May 3, 2012, for rent due on May 1, 2012. This is not possible; the application for dispute resolution was submitted to the Residential Tenancy Branch on April 23, 2012, prior to the issue date of the Notice ending tenancy.

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: May 10, 2012.

Residential Tenancy Branch