



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, OLC, RP, FF

Introduction

This hearing was scheduled to deal with a tenant's application to cancel a Notice to End Tenancy for Unpaid Rent or utilities; Orders for compliance and repairs; and, authorization to suspend or set conditions on the landlord's right to enter the rental unit. The landlord did not appear at the hearing.

The tenants testified that the Application for Dispute Resolution and Notice of Hearing were sent to the landlord via registered mail on June 25, 2012 and that the registered mail was successfully delivered. The tenants verbally provided a registered mail tracking number as proof of service. I was satisfied the landlord was served with the tenants' application in a manner that complies with the Act and I continued to hear from the tenants without the landlord present.

The tenants testified that their supporting documentation was given to a teen-aged boy apparently residing at the landlord's residence on July 5, 2012. As documents must be served in a manner that complies with section 88 of the Act, I found service of the tenant's evidence to be insufficient.

In the details of dispute on the tenants' Application for Dispute Resolution the tenants indicated the landlord provided an improper Notice to End Tenancy and other limited information with respect to the remainder of the issues identified on the application. Considering the limited information provided in the details of dispute and the insufficient service of the tenants' evidence package upon the landlord I considered the tenants' request to cancel a Notice to End Tenancy; however, I dismissed the remainder of the tenants' requests with leave to reapply.

Issue(s) to be Decided

Did the landlord issue the tenants a proper Notice to End Tenancy?

Background and Evidence

The tenants submitted that the landlord provided them with a document dated June 15, 2012 and entitled "10 Day Notice to End Tenancy for Unpaid Rent or Utilities PROOF OF SERVICE" which is identified as form number RTB-34. The document was accompanied by two utility bills; however, there was no allocation of the portion they owed. The tenants testified that they were never served with a 10 Day Notice to End Tenancy; however, they were of the position they should file to dispute the document in order to preserve the tenancy and resolve their dispute with respect to utilities.

The tenants were asked to provide a copy of the document they received from the landlord, which they did.

Analysis

The Act provides that in order for a landlord to end a tenancy the landlord must serve the tenant with a Notice to End Tenancy in the approved form. I confirmed that the document given to the tenants dated June 15, 2012 is not a Notice to End Tenancy in the approved form. Rather, the intended purpose of form RTB-34 is to provide details of service of a 10 Day Notice. Servicing a Proof of Service form may not be used in lieu of a proper Notice to end Tenancy in the approved form.

Based upon the evidence before me, I find the tenants have not been served with a Notice to End Tenancy in the approved form. Accordingly the tenancy continues.

I award the filing fee paid for this application to the tenants. In satisfaction of this award the tenants are authorized to deduct \$50.00 from a subsequent month's rent.

Conclusion

The tenants were not served with a Notice to End Tenancy in the approved form and the tenancy continues. The tenants are authorized to deduct \$50.00 from a subsequent month's rent in order to recover the filing fee paid for this application.

The remainder of the tenants' application was 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: July 11, 2012.

Residential Tenancy Branch