



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, FF

Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for cause and to recover the filing fee for this application.

Issues(s) to be Decided

- Have the tenants provided sufficient evidence that the Notice to End Tenancy can be cancelled?
- If not, is the landlord entitled to an Order of Possession?
- Are the tenants entitled to recover their filing fee?

Background and Evidence

The tenants were served a One Month Notice to End tenancy for cause on June 05, 2009. This Notice was handed in person to the tenants by the landlord on June 05, 2009 and the tenants confirmed they had received this. As this was handed to the tenants in person it was deemed to have been served on the same day. The tenants had 10 days to dispute this Notice and apply for Dispute Resolution. However, the tenants did not apply for Dispute Resolution until June 17 which was 12 days after receiving the Notice.

Analysis

The tenants did not file their Application to dispute the Notice to end tenancy within the required time frame of 10 days pursuant to section. 47(4) of the *Act*. Section 47.(5) of the *Act* states that if a tenant has not made an application for Dispute Resolution in accordance with subsection (4) of the Act they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

The Notice required the tenants to leave the rental unit on July 06, 2009. The landlord has requested an Order of Possession at the hearing to take effect as soon as possible.

Conclusion

I HEREBY uphold the landlords One Month Notice and the tenant's application is dismissed in its entirety, without leave to reapply.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

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 22, 2009.

Dispute Resolution Officer