



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MT, CNC, OPT

Introduction

This hearing was convened by way of conference call to deal with the tenants' application for an order cancelling a notice to end tenancy, for an Order of Possession, and for an order permitting the tenants more time than set out in the *Residential Tenancy Act* for making the application to cancel the notice to end tenancy.

Despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents personally on September 8, 2010, the landlords did not attend the conference call hearing. One of the tenants attended the hearing as agent for both tenants, and an advocate also attended to assist the tenant in the hearing.

All evidence and information has been reviewed and is considered in this Decision.

Issues(s) to be Decided

Are the tenants entitled to an order permitting the tenants more time to make the application to cancel the notice to end tenancy?

Are the tenants entitled to an order cancelling a 1 Month Notice to End Tenancy for Cause?

Are the tenants entitled to an Order of Possession of the rental unit or site?

Background and Evidence

This month-to-month tenancy began on December 16, 2008, and the tenants both still reside in the rental unit. Rent in the amount of \$950.00 is payable in advance on the 1st day of each month and there are currently no rental arrears.

The tenant testified that he was served with a 1 Month Notice to End Tenancy for Cause on August 3, 2010. A copy of that notice was provided in advance of the hearing and it states that it was issued on July 31, 2010 and has an expected date of vacancy of September 1, 2010.

The tenant did not make an application to dispute the notice within the 10 days required under the *Residential Tenancy Act* because he was not aware that he only had 10 days to dispute the notice, and has since sought the assistance of an advocate.

The tenant further testified that since being served with the notice, and since filing the Tenant's Application for Dispute Resolution, he has spoken with the landlord, who has agreed that so long as the tenants keep up and maintain the property to his specifications he will not act on the Notice to End Tenancy. The tenant believes that is why the landlord has not attended the conference call hearing, and the tenant also believes that he will be able to maintain the property to the landlord's specifications. The tenant also testified that an Order of Possession will not be necessary as the tenants still reside in the rental unit well beyond the effective date of the notice.

Analysis

In the circumstances, I allow the tenants more time to make the application to cancel the Notice to End Tenancy. The landlords did not attend the hearing to defend the notice, and I accept the evidence of the tenant that an agreement was made between the parties.

Conclusion

For the reasons set out above, the 1 Month Notice to End Tenancy for Cause is hereby cancelled.

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: October 15, 2010.

Dispute Resolution Officer