



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution to cancel a One Month Notice to End Tenancy and for an Order for the Landlord to comply with the Act.

The Tenant and Agent for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

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(s) to be Decided

Is the Tenant entitled to an Order cancelling the 10 day Notice to End Tenancy?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

Both parties agree this tenancy began on May 12, 2010, on a month to month basis. Rent is \$570.00 per month, payable on the first day of each month, and a security deposit of \$285.00 was paid on May 12, 2010.

Based on affirmed testimony, the Landlord issued a One Month Notice to End Tenancy for Cause to the Tenant (the "Notice") on September 2, 2010, in person, with a stated effective date of October 2, 2010. Under the Act, a notice under this Section must end the tenancy effective on a date that is not earlier than one month after the date the notice is received, and the day before the day in the month that rent is payable under the tenancy agreement. Thus I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to October 31, 2010.

The Notice explains that the Tenant had ten days to dispute the Notice. It also explains that if the Tenant does not file an Application to Dispute the Notice within ten days, then the Tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice. The Tenant acknowledged receipt of the Notice and I find that he did not file an Application to dispute the Notice within ten days.

The Agent for the Landlord during the hearing made an oral request for an Order of Possession, for the effective date of the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant did not apply to dispute the Notice within the ten days and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Therefore, I find the Notice is valid and that the Landlord is entitled to an order of possession effective at **1:00 p.m. on October 31, 2010**, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed as the Notice to End Tenancy issued is valid and may be enforced.

The Landlord is granted an Order of Possession.

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 21, 2010.

Dispute Resolution Officer