



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, OPR, ET

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the Advocate the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the Advocate

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an Order of Possession and an early end to the tenancy based on Notice to End Tenancy that was given for cause. The applicants have also requested a monetary order and an order to keep the security deposit.

Background and Evidence

The tenant was personally served with the Notice to End Tenancy on August 23, 2011.

The tenant was subsequently admitted to the psychiatric ward of the hospital on September 8, 2011 pursuant to a 30 day court order.

The Advocate has argued that, at the time, the tenant was unable to respond to the Notice to End Tenancy due to mental health issues, and therefore they are requesting an extension of time to today to dispute the notice, and ask that the Notice to End Tenancy be cancelled.

The landlord is opposed to any extension and is requesting an Order of Possession.

Analysis

Sections 66(1) & 66(3) of the Residential Tenancy Act state:

66 (1) The director may extend a time limit established by this Act only in exceptional circumstances.

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Therefore, although these could be considered exceptional circumstances, since the effective date of the notice has already passed, I have no authority to extend the time limit to make an application to dispute the Notice to End Tenancy.

The tenant is therefore deemed to have accepted the end of the tenancy and the landlords have the right to the requested Order of Possession; however since the tenant is unable to leave the psychiatric ward of the hospital until at least October 7, 2011 I will make the Order of Possession for after that date.

I will make no orders regarding the security deposit nor will I issue any monetary order, as the applicants have provided no particulars with regards to that portion of the claim.

Conclusion

I have issued an Order of Possession for 1 p.m. on October 15, 2011. The request for a monetary order and the request for an order to keep the security deposit are both 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: October 03, 2011.

Residential Tenancy Branch