



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC

Introduction

This matter dealt with an application by the Tenant to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 17, 2011 and to cancel a One Month Notice to End Tenancy for Cause dated August 29, 2011.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started approximately 3 months ago. Rent is \$750.00 per month payable in advance on the 1st day of each month. The Landlord said that the Tenant's rent cheque for August 2011 was returned unpaid and as a result, on August 17, 2011 he served the Tenant in person with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 17, 2011. The Tenant admitted that she received this Notice and that she has not paid rent for August or September 2011.

Analysis

Section 46(4) of the Act states that within 5 days of receiving a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or (if they believe the amount is not owed) apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and they must vacate the rental unit at that time.

Although the Tenant applied to cancel the 10 Day Notice dated August 17, 2011 within the 5 days granted, I find that there is no merit to her application. In particular, the Tenant admitted that rent of \$750.00 was owed for August 2011 when she received the 10 Day Notice and that this amount is still unpaid. Consequently, the Tenant's application to cancel the 10 Day Notice dated August 17, 2011 is dismissed without leave to reapply. The Landlord's agent requested and I find pursuant to s. 55(1) of the

Act that he is entitled to an Order of Possession to take effect 2 days after service of it on the Tenant.

At the conclusion of the hearing and following my oral decision, the Tenant asked for an adjournment to get the assistance of an advocate. I dismissed the Tenant's application on the grounds that she had already had a month to do so, that the hearing had ended and that it would make no difference to the outcome of this matter given that none of the relevant facts were in dispute. The Tenant then admitted that she wanted an adjournment because she is currently in a treatment centre for 40 days and wants an opportunity to put her belongings in storage. The Parties agreed to discuss this matter following the hearing.

Conclusion

The Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 17, 2011 is dismissed without leave to reapply. As the tenancy will be ending for this reason, it is unnecessary for me to determine if the Landlord also has grounds to end the tenancy pursuant to a One Month Notice to End Tenancy for Cause dated August 29, 2011 and for that reason, the Tenant's application to cancel the One Month Notice is also dismissed without 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: September 13, 2011.

Residential Tenancy Branch