



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to cancel a ten day notice to end tenancy for unpaid rent.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The landlord requests an order of possession.

Issue(s) to be Decided

Should the ten day notice to end tenancy for unpaid rent be cancelled?

Background and Evidence

The tenants were served with a notice to end tenancy for non-payment of rent on January 2, 2012, by posting the notice to the door of the rental unit. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenants had five days to dispute the notice.

The male tenant testified they have not paid the landlord rent for January 2012.

The female tenant testified they have not paid rent due to their financial circumstances.

Analysis

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

Although the tenants applied to cancel the ten day notice to end tenancy dated January 2, 2012, within the five days granted, I find that there is no merit to the tenants' application. The tenants have admitted that they have not paid all rent owed for January 2012. Therefore, I dismiss the tenants' application to cancel the ten day notice to end tenancy.

As the tenants' application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states: Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing, (a) the landlord makes an oral request for an order of possession, and (b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenants' application, I find that the landlord is entitled to an order of possession effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court

This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenants' application to cancel the ten day notice to end tenancy is dismissed.

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: January 27, 2012.

Residential Tenancy Branch