



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC

Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking orders as follows:

1. To cancel a notice to end tenancy for cause.

The landlord's application is seeking orders as follows:

1. For an order of possession.

Both parties appeared, gave 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.

Preliminary Issue

The tenant acknowledged she received the notice to end tenancy for cause on March 30, 2012, under the provisions of the Act the tenant had 10 day to file an application for dispute resolution. The tenant's application was filed on April 11, 2012, which is outside the time limited permitted under the Act.

The tenant did not apply to allow more time to make an application to cancel a notice to end tenancy. However, the tenant was given the opportunity to provide the circumstance for filing her application late.

The tenant's evidence was she was in the Residential Tenancy Branch on April 5, 2012 and she was unable to file her application until she provided proof of her income in order to be exempt the filing fee. On April 5, 2012, the tenant received the Account History from her bank account, however, the tenant did not return to the Residential Tenancy Branch as she needed to pick up her child from school. The tenant had no reason for not attending on April 10, 2012, to file her application which was the last day permitted under the Act.

Under section 66(1) of the Residential Tenancy Act, an extension of time can only be granted where the applicant has established that there are exceptional circumstances. I

find the tenant did not take reasonable and appropriate steps to comply with the relevant time limit, and the tenant has failed to prove that exceptional circumstances prevented her from filing her application. Therefore, I dismiss the tenant's application.

As the tenant's application is dismissed and the landlord has made an application for an order of possession, 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 tenant's application, I find that the landlord is entitled to an order of possession. The landlord has agreed to extend the move out date on the notice. Therefore, the landlord is granted an order of possession effective **June 1, 2012, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application to cancel a 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: April 27, 2012.

Residential Tenancy Branch