



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

The tenant's application is seeking an order as follows:

1. To cancel a ten day notice to end tenancy for unpaid rent issued on June 5, 2012.

The landlord's application is seeking an order as follows:

1. For an order of possession 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.

Issue(s) to be Decided

Should the ten day notice to end tenancy for unpaid rent issued on June 5, 2012, be cancelled?

Is the landlord entitled to an order of possession?

Background and Evidence

Based on the testimony of landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant testified that he has not paid the balance of rent owed.

The landlord seeks an order of possession.

Analysis

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

Although the tenant applied to cancel the ten day notice to end tenancy dated issued on June 5, 2012. I find that there is no merit to the tenant's application. In particular, the tenant admitted that rent was owed when he received the notice and that amount was not paid within the five days required by the Act. Therefore, I dismiss the tenant's application to cancel the notice to end tenancy.

As the tenant's application is dismissed and the landlord has made an application for 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 effective **two days** after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application to cancel the ten day notice to end tenancy issued on June 5, 2012, 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: July 06, 2012.

Residential Tenancy Branch