



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an application made by the tenants for an order cancelling a notice to end tenancy for cause.

One of the tenants attended the hearing as agent for himself and for the other named tenant. However, despite being served with the Tenant's Application for Dispute Resolution and notice of hearing documents by registered mail on September 20, 2012, the landlord did not attend. The tenants provided evidence of having served the documents on that date and in that fashion and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence and the testimony provided by the tenant has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling a notice to end tenancy for cause?

Background and Evidence

The tenant testified that the landlord served the tenants with a 1 Month Notice to End Tenancy for Cause and provided a copy for this hearing. The notice is dated September 10, 2012 and contains an expected date of vacancy of October 15, 2012. The reason for issuing the notice is stated to be: "Tenant is repeatedly late paying rent." The tenants dispute the notice.

Analysis

The *Residential Tenancy Act* requires a tenant to dispute a landlord's notice to end tenancy or the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of that notice. If disputed, the onus is on the landlord to prove certain elements, such as the date and method that the notice was served, the effective

date as stated in the notice, and the reasons for issuing the notice. In this case, the tenants have disputed the notice and the landlord has not provided any evidence and has not attended the hearing to provide testimony regarding the issuance of the notice to end the tenancy. Therefore, I find that the notice ought to be cancelled.

Conclusion

For the reasons set out above, the notice to end tenancy issued on September 10, 2012 is hereby cancelled.

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 23, 2012.

Residential Tenancy Branch