



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

This hearing dealt with a tenant's application to cancel a Notice to End Tenancy for Unpaid Rent and a request for more time to file such an application. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

The tenant acknowledged receiving a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on July 27, 2012 and the content of the Notice to be accurate. The Notice has an effective date of August 7, 2012. The tenant did not file this Application for Dispute Resolution until August 31, 2012. The tenant explained that he his brain injured and when he received the Notice he began drinking heavily although the tenant could not explain why he did not pay rent before the Notice was issued.

Under the Act a tenant has only five days to file an Application for Dispute Resolution to dispute a 10 Day Notice. Section 66 of the Act does provide to extensions of time limits in exceptional circumstances only. However, section 66 provides that an extension must not be granted to allow an Application for Dispute Resolution to be filed after the effective date of the Notice to End Tenancy.

In this case, the tenant filed this Application for Dispute Resolution after the effective date of the Notice and I cannot grant an extension pursuant to the limitations provided under section 66 of the Act. Therefore, I found I could not proceed with the tenant's request to cancel the Notice and the tenant's application must be dismissed.

The tenant indicated he wished to use the hearing time to reach an agreement with the landlord and the tenant proposed a repayment plan. The landlord indicated that a repayment agreement was not an option in the circumstances leading up to this hearing and that she upon the owner's instruction she must pursue the end of the tenancy and seek an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

It was undisputed that the tenant is required to pay rent of \$450.00 on the 1st day of every month and that as of July 1, 2012 the tenant owed \$500.00 in rent. The tenant received a 10 Day notice to End Tenancy for Unpaid Rent on July 27, 2012 and has not paid any rent since. The Notice has an effective date of August 7, 2012 and the tenant filed to dispute the Notice on August 31, 2012.

The tenant's application to cancel the Notice has been dismissed for the reasons indicated in the Preliminary and Procedural Matters section of this decision.

Analysis

Section 55 of the Act provides that an Order of Possession must be provided to the landlord where:

- The tenant has filed an Application for Dispute Resolution to cancel a Notice to End Tenancy and the application has been dismissed; and,
- The landlord verbally requests an Order of Possession during the scheduled hearing.

I am satisfied the criteria of section 55 have been met in this case and the landlord is entitled to an Order of Possession.

Provided to the landlord with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Conclusion

The tenant's application has been dismissed. The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant.

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 09, 2012.

Residential Tenancy Branch