



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT

Introduction

Some documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent and a request for more time to file an application to cancel a Notice to End Tenancy.

Background and Evidence

On August 28, 2012 the landlord served the tenant with a 10 day Notice to End Tenancy by registered mail and therefore that notice is deemed to have been received on September 2, 2012.

Any dispute of a Notice to End Tenancy given for nonpayment of rent must be filed within five days of receiving that notice and if no dispute is filed, the tenant is deemed to have accepted the end of the tenancy.

The tenant claims that she did not receive the notice until September 4, 2012, however she did not file a dispute of the notice until September 17, 2012, a full 13 days after she claims to have received the notice, and 15 days after it was deemed to have been received.

The landlords have accepted rent for the month of October 2012, for use and occupancy only.

Analysis

The applicant has provided no reason why she was unable to apply within the five day time limit, and therefore since she did not apply within the time limit set out in the act, and in fact did not apply until more than double the time had expired, I am not willing to allow more time to apply, and I will not cancel this Notice to End Tenancy as the tenant is deemed to have accepted the end of the tenancy.

Conclusion

This application to cancel a Notice to End Tenancy is dismissed without leave to reapply and at the request of the landlords I have issued an Order of Possession.

The Order of Possession is for 1 p.m. on October 31, 2012.

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 22, 2012.

Residential Tenancy Branch