



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was scheduled for 3:00 p.m. on this date to hear a tenant's application to cancel a 1 Month Notice to end Tenancy for Cause. Despite leaving the teleconference call open for 10 minutes the tenant did not appear at the hearing. The landlord appeared, along with an agent, and confirmed receiving the hearing documents from the tenant. Since the landlord appeared and was prepared to proceed with the tenant's application, in the absence of the tenant, I dismissed the tenant's application without leave to reapply.

The landlord orally requested an Order of Possession at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

In filing this Application the tenant provided a copy of the 1 Month Notice to End Tenancy for Cause that was to be the subject to be this dispute. It was issued by the landlord on January 6, 2013 and has a stated effective date of February 6, 2013.

The landlord stated the tenant is required to pay rent on the 1st day of every month although the rent for January 2013 has not been fully paid. The landlord was informed of his right to make his own Application for Dispute Resolution with respect to unpaid rent.

Analysis

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

- The tenant files to cancel a Notice to End Tenancy and the application is dismissed; and,

- The landlord orally requests an Order of Possession during the scheduled hearing.

Having dismissed the tenant's Application for Dispute Resolution I grant the landlord's verbal request for an Order of Possession pursuant to the provisions of section 55 of the Act.

Since the rent is payable on the 1st day of the month, under section 47 of the Act, the effective date of the 1 Month Notice should read February 28, 2013. Where an effective date is incorrect it automatically changes to comply under section 53. Therefore, the Notice to End Tenancy has an effective date of February 28, 2013 and that is the effective date on the Order of Possession provided to the landlord with this decision.

Conclusion

The tenant's application has been dismissed. The landlord has been provided an Order of Possession effective February 28, 2013 at 1:00 p.m. to serve upon the tenant and enforce as necessary.

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: January 31, 2013

Residential Tenancy Branch

