



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC, OPC, OPB, FF

Introduction

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

The landlord's application is seeking orders as follows:

1. For an order of possession; and
2. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To allow a tenant more time to make an application to cancel a notice to end tenancy;
2. To cancel a notice to end tenancy issued on February 20, 2013;
3. For money owed or compensation under the Act; and
4. To recover the cost of filing the application.

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 at the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to be allowed more time to make an application and the request to set aside the Notice to End Tenancy if appropriate and the landlord's application for an

order of possession. The balance of the tenant's application is dismissed, with leave to re-apply.

Preliminary issue – Tenant's application

The tenant acknowledged he received the 1 month notice to end tenancy for cause on February 20, 2013, under the provisions of the Act the tenant had ten days to file an application for dispute resolution. The tenant's application was filed on April 12, 2013, requesting to be allowed more time to make an application to cancel a notice to end tenancy.

Under section 66(3) of the Residential Tenancy Act an arbitrator must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

In this case, the tenant filed his application for dispute resolution on April 12, 2013. The tenant acknowledged he received the 1 month notice for cause on February 20, 2013, with an effective date of March 31, 2013. As the effective vacancy date of the notice has expired. I must pursuant to section 66(3) of the Act, deny the tenant's application for more time to make the application.

Issue(s) to be Decided

Is the landlord entitled to an order for 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 cause on February 20, 2013, by posting to the door. The notice informed the tenant that they have ten days to dispute the notice. The notice also explains that if you do not file an application within ten days, you are presumed to have accepted the notice and must move out of the rental unit by the date set out in the notice.

The tenant acknowledged that he received the 1month notice to end tenancy on February 20, 2013. The tenant acknowledged that he did not file for dispute resolution unit after the effective date of the notice, which was March 31, 2013.

Analysis

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

The tenant did not apply to dispute the notice within the required time limit under the Act and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

On April 12 2013, the tenant applied to allow a tenant more time to make and application to cancel a notice to end tenancy, however, that matter was dismissed as there is no authority under the Act to extend the time limit beyond the effective date of the notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$50.00 for the cost of filing this application. The landlord is entitled to deduct that amount the tenant's security deposit in full satisfaction of the claim.

As the tenant was not successful with their application, the tenant is not entitled to recover the cost from the landlord.

Conclusion

The tenant's application to be allowed more time to make an application is dismissed.

The tenant failed to file to dispute the notice to end tenancy within the time lines under the Act. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession.

The landlord is entitled to retain \$50.00 for the tenant's security deposit to recover the cost of filing this application.

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: April 29, 2013

Residential Tenancy Branch