



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a ten day notice to end tenancy for unpaid rent issued on April 1, 2013.

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 to me.

Issue(s) to be Decided

Should the ten day notice to end tenancy for unpaid rent issued on April 1, 2013, be cancelled?

Background and Evidence

Based on the evidence submitted, I find that the tenant was served with a notice to end tenancy for non-payment of rent on April 1, 2013. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant testified that at the time the notice was served he had not paid March 2013, rent which was due. The tenant stated he has not paid any rent for March, April and May 2013.

The landlord stated they are seeking an order of possession.

Analysis

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

Although the tenant applied to cancel the ten day notice to end tenancy issued on April 1, 2013, within the five days granted, I find that there is no merit to the tenant's application. In particular, the tenant admitted that rent was owed when he received the notice and that amount was not paid within the five days required by the Act. Therefore, I dismiss the tenant's application to cancel the notice to end tenancy.

As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application to cancel the ten day notice to end tenancy is dismissed. The landlord is granted an order of possession

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: May 02, 2013

Residential Tenancy Branch