



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPB, FF, SS, O

Introduction

This hearing was convened to deal with two applications for Dispute Resolution, one brought by the tenant, and one brought by the landlord; however the landlord stated that he never served the notice of hearing for his application on the tenant, and therefore I only dealt with the tenant's application at today's hearing.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent.

Some documentary evidence and written arguments have been submitted 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

The issue is whether or not to cancel a Notice to End Tenancy that was given for nonpayment of rent.

Background and Evidence

The landlord testified that:

- The tenant failed to pay the July 2013 rent, and therefore on July 5, 2013 a 10 day Notice to End Tenancy for nonpayment of rent was posted on the tenant's door.
- To date the tenant has failed to comply with the notice, and has failed to pay any further rent.
- He is therefore requesting that the Notice to End Tenancy be upheld and that an Order of Possession be issued for as soon as possible.

The tenant testified that:

- I was in hospital from June 28, 2013 to July 7, 2013, and as a result was unable to pay the rent at that time.
- I am on Social Assistance; however they will not release the rent to me because of the Notice to End Tenancy and the Dispute Resolution hearing.
- I therefore have been unable to pay any of the rent.

Analysis

If the tenant fails to pay the rent the landlord has the right to give a Notice to End Tenancy, and in this case the rent is now a full month overdue.

Rent is due on the first of the month, and is supposed to be paid at that time and although there may have been some extenuating circumstances at the beginning of July 2013, by her own testimony, the tenant was out of the hospital by July 7, 2013 and yet rent still has not been paid.

I therefore am not willing to cancel this Notice to End Tenancy and will be issuing an Order of Possession as requested by the landlord.

Conclusion

The tenant's application is dismissed in full without leave to reapply and I've issued an Order of Possession to the landlord that is enforceable two days after service on the tenant.

As stated above, the landlord failed to serve the tenant with the Notice of Hearing and hearing package for his application, and therefore that application is dismissed with leave to reapply.

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: August 01, 2013

Residential Tenancy Branch

