



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT

Introduction

The tenant applies for an order for more time to make an application to dispute a 10 day Notice to End Tenancy. If granted, the tenant requests an order to cancel the subject notice.

The landlord applied at the hearing for an order of possession.

Issue(s) to be decided

1. Should the tenant be allowed more time to make her application?
2. Is the landlord entitled to an Order of Possession?

Background and Evidence

1. The tenant testified as follows:
This tenancy began on or about February 15, 2013. Her rent is paid directly by welfare, and her rent is \$375.00 per month. She thought she was going to get a room of her own, but in fact ending up sharing a room with a roommate, who also pays \$375.00 per month.

On September 9, 2013, she received an eviction notice from the landlord. She did not file a dispute of this eviction notice within the required 5 day period, because she went to welfare and was arguing with the welfare office. The welfare office is holding her shelter cheques pending the outcome of this hearing.

2. The landlord testified as follows:
This is a joint tenancy, as confirmed by a written tenancy agreement signed by this tenant and her roommate. Monthly rent is \$750.00 per month. The rent fell into arrears, and on September 8, 2013 the tenants were served with a 10 day notice to end tenancy. The male tenant signed a receipt of that notice on September 8, 2013. No rent has been paid since.

Analysis

The landlord's testimony and his documents filed into evidence satisfy me that this

tenancy is a joint tenancy of the Tenant, and her roommate. Both are jointly and severally liable for the monthly rent payment.

Section 46 of the Residential Tenancy Act deals with the issues related to landlord's notices given to end the tenancy in cases of non-payment of rent. Subsection 46(4) provides that the time limit to dispute such notice is 5 days.

Section 66 of the *Residential Tenancy Act* provides that I have the authority to extend or modify a time limit only in exceptional circumstances. Section 66(2) however, clarifies that this authority does not extend to cases of 10 day notices for non-payment of rent, unless agreed to by the landlord, or cases of emergency repairs. Neither of those conditions apply in this case. Accordingly, the application for more time to dispute the notice must be dismissed.

Further, I find that in any event, the notice was valid, in that the full rent was unpaid, and remained unpaid beyond the required 5 day period after the notice was received (which I find was on September 8, 2013).

Conclusion

The tenant's application is dismissed. The tenancy therefore ends.

I issue an Order of Possession to the landlord, effective 48 hours following service upon the tenant. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

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 08, 2013

Residential Tenancy Branch

