



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

The tenant applied to cancel a Notice ending tenancy for cause.

The tenant provided affirmed testimony that the notice of hearing and hearing package was sent to the landlord via facsimile. The landlord supplied evidence on November 19, 2013, indicating they had received the Notice, but that service via facsimile was insufficient notice.

Service of documents sent via facsimile is not an approved method of service for an application; as set out in section 89 of the Act. However, I find, pursuant to section 71(2) of the Act that the landlord, J.K., POA for J.E.W. was sufficiently served with the documents on October 21, 2013; the date the landlord indicated the documents were sent and received from a drug store facsimile machine. The date code could be seen on the documents.

End of Tenancy

The tenant confirmed that a hearing was held on October 21, 2013, in which a decision resulted in a determination that a tenancy had existed and would end in accordance with the Act. An Order of possession was issued to the landlord.

The tenant then applied requesting review consideration. During this hearing the review consideration decision was referenced, as the tenant said he had not received a copy. The review decision indicated that the review consideration application was dismissed as the tenant had not applied within the required time-frame.

I then explained that this application could not proceed as the matter related to the end of the tenancy had been decided on October 21, 2013, when the landlord was given the Order of possession. The tenant asked what the next step should be; it was suggested the tenant obtain advice, that I could not provide advice.

The tenant indicated that he understood he could apply for Judicial Review on the October 21, 2013 decision.

Therefore, as the tenancy has been previously ended I find that this application is dismissed.

Conclusion

This tenancy has been previously ended; the application is dismissed.

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: December 02, 2013

Residential Tenancy Branch

