



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

This matter was set for hearing at 1.30 p.m. on this date to hear the tenant's application for more time to file an application to dispute a Notice to End Tenancy and to have a 10 Day Notice to End Tenancy set aside. Since the applicant did not appear at the hearing by 1.40 p.m., but the respondent did appear and was ready to proceed, I dismiss the tenant's application without leave to reapply pursuant to rule 10.1 of the Residential Tenancy Branch *Rules of Procedure*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result the tenant's application to set aside a 10 Day Notice to End Tenancy for cause has been dismissed.

Section 55(1) of the *Act* provides that if a tenant's application to dispute a Notice to End Tenancy Due is dismissed, and the landlord makes an oral request for an Order of Possession at the hearing, then the director must issue an Order of Possession of the rental unit to the landlord.

The landlord's agent has made an oral request for an Order of Possession for the rental unit at the hearing. The effective date of the Notice was January 21, 2014; however, as the Notice was served to the tenant by posting it to the tenant's door on January 11, 2014 then the Notice was deemed served three days later on January 14, 2014. The effective date of the notice has therefore been amended to January 24, 2014 pursuant to s. 53 of the *Act*. As this date has since passed I grant the landlords request and issue an Order of Possession for two days after service.

Conclusion

The tenant's application is dismissed without leave to re-apply.

The landlord has been issued an Order of Possession effective **two (2) days** after service upon the tenant pursuant to section 55(1) of the *Act*. This Order must be served

on the tenant. If the tenant fails to move from the rental unit the Order and may be filed in the Supreme Court and enforced as an order of that Court.

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: February 13, 2014

Residential Tenancy Branch

