



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Li-Car Management Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant to cancel a notice to end tenancy for unpaid rent or utilities.

The tenant and an agent and witness for the landlord company all attended the conference call hearing.

The landlord's agent advised that the landlord has already obtained an Order of Possession dated February 17, 2014 and a copy has been provided for this hearing. The agent advised that a notice to end tenancy for cause had been issued and the landlord had applied for an Order of Possession. The hearing was scheduled for February 17, 2014 and the tenant was served by registered mail. The tenant did not pick up the mail but was advised by an employee of the landlord company of the date and urged the tenant to pick up the registered mail. The tenant did not attend the hearing and the landlord was successful in obtaining the Order of Possession.

The tenant advised that when he filed this application for dispute resolution on February 25, 2014 he was told by Residential Tenancy Branch staff that he need not dispute or file anything else. The tenant disputed a notice to end tenancy for unpaid rent and stated that the rent is paid.

The tenant agreed that he was told about the hearing date and thought the Residential Tenancy Branch would call him on February 17, 2014 but no one called. The tenant did not have a passcode or phone number to join that conference call hearing. The tenant asks that the Order of Possession be set aside.

No affirmed testimony was taken from either party or the witness.

Analysis

In the circumstances, I can see that the tenant was confused about the process however, conducting this hearing to ascertain whether or not a notice to end tenancy for unpaid rent or utilities should be cancelled would not have any effect. The landlord obtained an Order of Possession before the tenant made this application. I find that the issue of *res judicata* applies, meaning that I have no authority to change an order made by another Arbitrator. Therefore, I find that the tenant's application must be dismissed.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without 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: March 10, 2014

Residential Tenancy Branch

