



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, OLC, LRE, AAT

Introduction

This hearing was scheduled to deal with a tenant's application to cancel a 1 Month Notice to End Tenancy for Cause and more time to make the application, among other things. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural Matters

Both parties testified that the tenant was personally served with the 1 Month Notice to End Tenancy on January 30, 2014 with a stated effective date of February 28, 2014. The tenant filed to dispute the Notice on February 21, 2014.

The Act requires that where tenant seeks cancellation of a 1 Month Notice, the tenant must file an Application for Dispute Resolution within 10 days of receiving the Notice. The Act provides that an extension of time may be granted in exceptional circumstances only.

The tenant submitted that he was in the hospital until February 2, 2014 and then spent the days that followed deciding what he should do and looking for alternative accommodation.

I find the tenant did not provide exceptional circumstances that prevented him filing an Application for Dispute Resolution within 10 days of receiving the 1 Month Notice or within 10 days of getting out of the hospital. Therefore, I deny the tenants request for more time to file dispute the 1 Month Notice and I dismiss his request to cancel the 1 Month Notice.

As the tenancy has ended, I found it unnecessary to further consider the remainder of the tenant's application.

The landlord orally requested an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

Both parties confirmed that the landlord received rent from Income Assistance on behalf of the tenant for the month April 2014. As such, the landlord requested an Order of Possession effective April 30, 2014.

Analysis

Section 55 of the Act provides that an Order of Possession shall be granted to a landlord where:

- The tenant files to cancel a notice to End Tenancy and the application is dismissed; and,
- The landlord orally requests an Order of Possession during the scheduled hearing.

I find the criteria of section 55 have been met and I grant the landlord's request for an Order of Possession effective April 30, 2014.

Conclusion

The tenant's application has been dismissed and the landlord has been provided an Order of Possession effective April 30, 2014.

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: April 16, 2014

Residential Tenancy Branch

