



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR

Introduction

The tenant applies to cancel a one month Notice to End Tenancy for cause and a ten day Notice to End Tenancy for unpaid rent. Both Notices were served on the tenant on November 11, 2014.

At the start of the hearing the tenant indicated that he was to be represented by the Together Against Poverty Society. No one from that society attended the hearing. At the tenant's request Mr. J.C. of that society was called into the hearing. He indicated that the society had not agreed to represent the tenant at this hearing, though he had spoken to the tenant sometime prior.

The tenant indicated that he was suffering from brain damage and was not capable representing himself at this hearing. At his request, a medical doctor, Dr. F. was called by the conference operator but the doctor was unable to attend the hearing to confirm the tenant's mental status. The tenant requested that a hospital be called. I determined that it was unlikely a hospital would release patient information over the telephone and the hospital was not called.

During the preliminary portion of the hearing the tenant stated he had no recollection of the terms of this tenancy, made October 10, 2014 according to the written tenancy agreement filed. At the same time he displayed what appeared to be a normal capacity for recollection how his previous landlord had arranged for this tenancy, the amount of the security deposit and the wrongs that other tenants had inflicted upon him since moving in.

It was not obvious or apparent that the tenant was operating under any mental disability. This is the tenant's application. The burden of establishing such an impediment is on him. It is also for him to arrange for assistant at the hearing should he need it.

It was agreed that the landlord had not received any rent money since the tenant's former landlord paid the first month's rent and the \$375.00 security deposit for the tenant back on October 10, 2014.

In these circumstances I declined to consider an adjournment of the matter to further investigate the tenant's assertion of his own lack of capacity to represent himself.

Issue(s) to be Decided

Are either the one month Notice for cause or the ten day Notice for unpaid rent valid Notices resulting in an end to the tenancy?

Background and Evidence

The rental unit is a motel room. The written tenancy agreement shows the tenancy started October 10, 2014 on a month to month basis at a rent of \$750.00. The landlord holds a \$375.00 security deposit.

The landlord was introduced to the tenant by the tenant's previous landlord who indicated he had to move the tenant to a new location so that some flooring work could be done in the tenant's former rental unit. That previous landlord paid the first month's rent and the security deposit. It is agreed this landlord has been paid nothing since.

The tenant says his rent money was stolen. He says he is waiting for receipt a police file regarding noise at the premises.

Analysis

Section 26 (1) of the *Residential Tenancy Act* (the "*Act*") provides that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement. I find that the tenant has no lawful excuse for not paying the rent and that the ten day Notice to End Tenancy served November 11, 2014 was a valid Notice.

The ten day Notice resulted in this tenancy ending on November 22, 2014, by operation of s. 46 of the *Act*. At the hearing the landlord requested an order of possession as he is entitled to do under s. 55 of the *Act*. I grant the landlord an immediate order of possession.

In light of this result, I need not consider whether the one month Notice to End Tenancy for cause is or is not a valid Notice.

Conclusion

The tenant's application is dismissed. The landlord will have an order of possession.

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 15, 2014

Residential Tenancy Branch

