



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This is an application to cancel a Notice to End Tenancy that was given for cause.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on December 31, 2014; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing. I therefore conducted the hearing in the absence of the respondents.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to cancel a Notice to End Tenancy that was given for cause.

Background and Evidence

The tenants testified that on December 9, 2014 they received a one-month Notice to End Tenancy.

The tenant applied for dispute resolution on December 23, 2014 requesting that the Notice to End Tenancy be canceled.

The tenant stated that they believe the notice is due to some noise complaints from another tenant in the rental property however they stated that they now ensure that they are quiet and respectful at all times.

Analysis

The tenants admitted that they receive the Notice to End Tenancy on December 9, 2014 however they did not apply for dispute resolution until December 23, 2014, 14 days after receiving the notice.

Sections 47(4) & 47(5) of the Residential Tenancy Act state:

4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Therefore, in this case, since the tenants did not file their application within the ten-day time limit, they are conclusively presumed to have accepted that the tenancy ends on January 31, 2014, and they must vacate on that date.

I therefore will not cancel the Notice to End Tenancy.

Conclusion

This application to cancel a Notice to End Tenancy is dismissed without leave to reapply and this tenancy ends on January 31, 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: January 20, 2015

Residential Tenancy Branch

