



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MT

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause dated December 16, 2014 (the “Notice”), and for more time to cancel the Notice.

The Landlord appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing. However, there was no appearance for the Tenant during the 11 minute duration of the hearing.

Preliminary Issues

The Landlord testified that he served the Notice to the Tenant on December 16, 2014. However, the Landlord’s written evidence did not contain the second page of the Notice and the Tenant had not provided the Notice in written evidence prior to the hearing.

As the Landlord testified that the Tenant had been served with both pages of the Notice, I allowed the Landlord to provide a copy of the second page of the Notice after the conclusion of the hearing, pursuant to Rule 3.17 of the Rules of Procedure.

The Notice is dated December 16, 2014 and has a vacancy date of January 31, 2014. The reason for ending the tenancy on the Notice is because the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

The Landlord made a verbal request for an Order of Possession, pursuant to Section 55(1) of the Act.

The Tenant declares on the Application that the Notice was received by him on December 24, 2014. Therefore, in accordance with Section 47(4) of the Act, and taking

into account Section 25(3) of the *Interpretation Act* which allows for additional time if a business office is closed on the day of the deadline, I find the Tenant had until **January 5, 2015** to make the Application to dispute the Notice. However, the Tenant did not make the Application until **January 8, 2015**.

The Tenant applied for more time to cancel the Notice on the Application. This allows an Arbitrator to consider and determine if the applicant has demonstrated exceptional circumstances or reasons that hindered the making of the Application within the time limits stipulated by the Act.

As the Tenant failed to appear for the hearing and provided no evidence to support a request to extend the time limit, I find that the Tenant has failed to apply within the deadlines stipulated by the Act. Accordingly, I dismiss the Tenant's Application to cancel the Notice.

Section 55(1) (a) of the Act states that if a tenant makes an Application to dispute a landlord's notice to end tenancy, the landlord must be granted an Order of Possession if the tenant's Application is dismissed and the landlord makes an oral request for an Order of Possession.

Based on the Landlord's oral request, I grant the Landlord an Order of Possession which is effective on the vacancy date of the Notice. The Landlord's copy of this decision is accompanied with copies of the Order of Possession. This order must be served to the Tenant. If the Tenant fails to vacate the rental suite, the order may then be filed and enforced in the Supreme Court as an order of that court.

Conclusion

The Tenant failed to appear for the hearing. Therefore, the Tenant's Application is dismissed without leave to re-apply. The Landlord is granted an Order of Possession effective at **1:00 pm on January 31, 2015**.

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 28, 2015

Residential Tenancy Branch

