



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes CNC, FF

This hearing was set to hear the tenant's application for an order setting aside a 1 Month Notice to End Tenancy for Cause. Both parties appeared.

There was no evidence of any kind on the file, not even a copy of the Notice to End Tenancy. The landlord testified that she had sent her evidence to the Residential Tenancy Branch by Express Post and she provided the tracking number of the item. A search of the records of Canada Post showed that an item was mailed in Whistler on February 20 and signed for in Burnaby on February 23. There was no notation in the Residential Tenancy Branch record of the item having been received.

The tenant testified that he had submitted evidence to the local Government Agent office about three weeks ago. There was no record of that item being received by the Residential Tenancy Branch.

There was considerable argument between the parties about the service of evidence on each other.

The parties were determined to proceed on this date so I started hearing the oral testimony. I advised the parties at the outset that I would not be making any decision without reviewing the written evidence; that I would be making orders regarding evidence at the end of today's hearing; that I did not expect to complete the hearing in the time allocated; and that a continuation date would be set before the expiry of the time allocated for this hearing.

I heard the landlord's oral evidence.

There was a long discussion about the continuation date. In the end the parties agreed that Friday, March 13 at 1:00 pm was possible for them. The landlord's husband is terminally ill in Japan and so her future plans are always uncertain. I advised the landlord that if her husband's situation changed other arrangements could be made.

The parties were advised that the telephone number and code required on March 14 will be the same as today's.

I advised the parties that I accepted their statements that they had submitted evidence to the Residential Tenancy Branch but based upon the fact that this would be the most efficient means of proceeding, **I ordered each party to resubmit their evidence to the Residential Tenancy Branch as soon as possible.**

I also ordered each party to send the same evidence package to the other party by registered mail – not by Express Post or any other means of service – as soon as possible and to be prepared to give me the Canada Post tracking number at the continuation of this hearing.

I advised the parties that if the tenant offered to pay all or any portion of the March rent the landlord could accept the rent without jeopardizing their legal position if the landlord gave the tenant a receipt that said the payment was accepted “for use and occupancy only”.

In the course of the discussion at the end of the hearing I advised the parties that:

- The onus is on the landlord to prove, on a balance of probabilities, that she has sufficient grounds within the meaning of the legislation to end this tenancy.
- If the landlord is successful on this hearing, the tenancy will be ended and an order of possession granted. The terms of the order of possession will depend on whether rent has been paid or not.
- If the tenant is successful the tenancy continues and the tenant is not required to move out.
- The tenancy continues until I have heard all the evidence and written my decision.

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: February 27, 2015

Residential Tenancy Branch

