



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This is an application brought by the tenant(s) requesting an order canceling a one-month Notice to End Tenancy, and requesting recovery of the \$50.00 filing fee

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

All parties were affirmed.

Issue(s) to be Decided

The first issue I needed to decide is whether or not this application was filed within the required time limit.

Decision in reasons

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.

In this case the applicant/tenant testified at the beginning of the hearing that he received the Section 47, 1 month Notice to End Tenancy on June 1, 2015, and therefore the applicant was required to apply for dispute resolution by June 11, 2015.

The application for dispute resolution was filed on June 12, 2015 and therefore the application was not filed in accordance with subsection 47(4) of the Residential Tenancy Residential Tenancy Act.

Therefore pursuant to section 47(5), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, which is July 31, 2014, and the tenant must vacate by that date.

The applicant/tenant argued that because the documents were posted on his door on May 31, 2015 they are considered served three days later; however this would only apply if there was no evidence of the applicant/tenant having received the documents on an earlier date. As stated above, however, the applicant testified that he received the documents on June 1, 2015, and the Residential Tenancy Act clearly states that the application must be filed within 10 days after the tenant **receives** the notice.

[my emphasis]

The applicant did not apply for an Order for more time to file the application and therefore I will not cancel the Notice to End Tenancy, and at the request of the landlords I have issued an Order of Possession for July 31, 2014.

Conclusion

This application to cancel a Notice to End Tenancy is dismissed without leave to reapply and an Order of Possession has been issued to the landlords.

I further Order that the applicant/tenant bear the \$50.00 cost of the filing fee.

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: July 21, 2015

Residential Tenancy Branch

