



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cornerstone Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy. Both parties participated in the hearing, with both tenants being represented by the tenant KR.

Issue to be Decided

Should the tenants be granted additional time to file their dispute of the notice to end tenancy?

Background and Evidence

The parties agreed that on June 18, the tenants received a 1 month notice to end tenancy for cause (the "Notice"). The tenants applied to dispute the Notice on Tuesday, June 30, 2015. Although their application for dispute resolution was dated Monday, June 29, 2015, the parties did not submit those documents together with their proof of income showing that they are eligible for a fee waiver until June 30.

KR testified that he did not submit the application to dispute the notice earlier than June 30 because he was collecting documents and letters from other occupants of the building. I note that the only evidence submitted with the tenants' application was the Notice.

Analysis

Section 47(4) of the Act provides that tenants who receive a notice such as the one at issue have 10 days from the day they receive the Notice to file an application for dispute resolution. In this case, the tenants had until Monday, June 29 to file their dispute as June 28 fell on a Sunday when the Residential Tenancy Branch is closed. Section 47(5) provides that if an application is not received within 10 days, the tenants are

conclusively presumed to have accepted that the tenancy ended in accordance with the Notice.

Section 66(1) of the Act provides that I may extend a time limit only in exceptional circumstances. I do not consider the circumstances surrounding the tenants' delay to be exceptional. The tenants may have been anxious to obtain evidence, but they did not submit supporting evidence until August 14, which was 2 weeks before the hearing. I find that the tenants have provided no reason to explain their delay in filing their application and in the absence of proof of exceptional circumstances, I decline to extend the statutorily prescribed time limit.

I therefore find that the tenants have not filed their application to dispute the Notice within the required timeframe and are conclusively presumed to have accepted that the tenancy ended in accordance with the Notice. I have not considered the application on its merits.

The tenancy has ended and the landlord is free to file an application for dispute resolution to request an order of possession as they did not request this order at the hearing.

Conclusion

The application is dismissed.

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: August 28, 2015

Residential Tenancy Branch

