



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes CNR

Introduction

This hearing was convened by way of conference call in response to the tenant's application for an Order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served in person to the landlord's office on August 04, 2015.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to have the 10 Day Notice cancelled?

Background and Evidence

The tenant testified that he was served a 10 Day Notice on July 07, 2015. The tenant did not apply to cancel the Notice until August 04, 2015. The tenant testified that the landlord applied for a Direct Request Proceeding and obtained a Monetary Order for unpaid rent and an Order of Possession. The tenant provided the file number for the previous hearing.

The tenant testified that the landlord obtained a Writ of Possession and the bailiffs removed the tenant's belongings from the rental unit on August 14, 2015. The tenant testified that he vacated the rental unit on that date and the landlord collected rent on August 01, 2015 directly from the tenant's bank account.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the tenant and the tenant's mother. The tenant's application is to cancel the 10 Day Notice to End Tenancy. The tenant did not file his application within the five allowable days after being deemed served the 10 Day Notice on July 10, 2015. In any event the landlord has already been issued with an Order of Possession on July 27, 2015 and the tenant was evicted from the rental unit on August 14, 2015. Consequently, I am unable to consider the tenant's application to cancel the Notice to End Tenancy as the tenancy has since ended.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: October 22, 2015

Residential Tenancy Branch

