



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPR

Introduction:

This was an application by the tenant to cancel a Notice to End the Tenancy for non-payment of rent dated August 18, 2015. Only the tenant was present at the hearing.

SERVICE:

I find that the Notice to End a Residential Tenancy was served on the Tenant on August 18, 2015. I find the landlord was served with the Application by registered mail; however she never claimed it although the postal service left several notices. I find the landlord is deemed to be served with the Application pursuant to sections 89 and 90 of the Act.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Only the tenant attended the hearing; the landlord had no notice of the hearing but is deemed to be served with the registered mail. The tenant was given opportunity to be heard, to provide evidence and to make submissions. The tenant said the tenancy began in August 2013 and rent is \$2800 a month.

The tenant said he requested the Notice be set aside as he has no job and has had no success in finding other housing. He agreed he still owes 5 months in rent totalling \$14,000 and has not paid any of it.

Analysis:

The Notice to End a Residential Tenancy is based on non-payment of rent. The *Residential Tenancy Act* (the Act) permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. Although the tenant disputed the Notice in time, his reasons for non payment of rent constitute valid reasons to set aside the Notice to End Tenancy. I have therefore dismissed his application to cancel the Notice to End the Tenancy.

Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 46 and

has upheld the Notice. The landlord did not attend the hearing so such a request was not made. If the landlord requires an Order of Possession, she will have to make her own Application for Dispute Resolution.

Conclusion.

I dismiss the tenant's application without recovery of the filing fee. The Notice to End Tenancy dated August 18, 2015 is still in effect.

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 07, 2015

Residential Tenancy Branch

