



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to allow a tenant more time to make an application to cancel a Notice to End Tenancy and to cancel 1 Month Notice to End Tenancy for Cause (the “Notice”), issued on August 6, 2015.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing

Procedural matter & preliminary matter

The first issued I must determine is whether the tenant should be granted more time to make an application to cancel a Notice to End Tenancy.

The tenant acknowledged that they received the 1 Month Notice to End Tenancy for Cause, on August 6, 2015, under the provisions of the Act the tenant had ten days to file an application for dispute resolution. The tenant’s application was filed on September 1, 2015, requesting to be allow more time to make an application to cancel a notice to end tenancy.

Under section 66(1) of the Residential Tenancy Act an extension of time can only be granted where the applicant has established that there are exceptional circumstances.

In this case the tenant stated that they did not read the Notice when it was received. I find the tenant did not take reasonable and appropriate steps to comply with the relevant time limit, and the tenant has failed to prove that an exceptional circumstance, such as a medical emergency, prevented them from filing their application. Therefore, I dismiss the tenant’s application to allow a tenant more time to make an application to cancel a notice to end tenancy.

As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

As the landlord has accepted occupancy rent for the month of November 2015, I find it appropriate to extend the effective date in the Notice to November 30, 2015.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **November 30, 2015 at 1:00 P.M.**

This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application is dismissed. The landlord is granted an order of possession effective on the above noted date.

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: November 04, 2015

Residential Tenancy Branch

