



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1012 MAIN ST HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF, O

Introduction

This matter was set for hearing at 11.00 a.m. on this date to hear the tenant's application to have a One Month Notice to End Tenancy for cause set aside. Since the applicant did not appear at the hearing by 11.10 a.m., but the respondent did appear and was ready to proceed, I dismissed the tenant's application without leave to reapply pursuant to rule 7.3 of the Residential Tenancy Branch *Rules of Procedure*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result the tenant's application to set aside a One Month Notice to End Tenancy for cause has been dismissed.

Section 55(1) of the *Act* provides that if a tenant's application to dispute a Notice to End Tenancy Due is dismissed, and the landlord makes an oral request for an Order of Possession at the hearing, then the director must issue an Order of Possession of the rental unit to the landlord.

The landlord made an oral request for an Order of Possession for the rental unit at the hearing. The effective date of the One Month Notice was October 31, 2015; however, as the Notice was deemed to have been served three days after posting it to the tenant's door the effective date of the Notice is amended to November 30, 2015 pursuant to s. 53 of the *Act*. The landlord stated that the tenant has paid rent for December, 2015 and this was accepted for use and occupancy only. I therefore grant the landlord's oral request and issue an Order of Possession for December 31, 2015.

Conclusion

The tenants' application is dismissed without leave to re-apply.

The landlord has been issued an Order of Possession effective at **1.00 p.m. on December 31, 2015** pursuant to section 55(1) of the *Act*. This Order must be served on the tenant. If the tenant remains in Possession of the rental unit and does not relinquish that possession to the landlord then the Order and may be filed in the Supreme Court and enforced as an Order of that Court.

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: December 08, 2015

Residential Tenancy Branch

