



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDC OLC FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on October 16, 2015. The Tenant filed seeking an order to cancel a 10 Day Notice to end tenancy for unpaid rent; a monetary order, an Order to have the Landlord comply with the *Act*, Regulation, or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

The hearing was conducted via teleconference and was attended by the Landlord who gave affirmed testimony. No one on behalf of the Tenant called into this proceeding, despite this hearing being convened to hear matters pertaining to the Tenant's application for Dispute Resolution.

Issue(s) to be Decided

1. Should the Tenant's application be dismissed with or without leave to reapply?
2. Did the Landlord appear at the hearing and make an oral request for an Order of Possession?

Background and Evidence

The Landlord testified that he personally served documentary evidence to the Residential Tenancy Branch on December 17, 2015. That evidence consisted of: an email from the Tenant advising that she had requested a different hearing date; the Landlord's response to the email indicating that the Tenant had purposely written the wrong hearing date in her email request and that she had a history of trying to change hearing dates with her previous landlord; a letter from the Tenant dated December 16, 2015 informing the Landlord of her request to change the hearing which also listed an incorrect hearing date; and Canada Post tracking information for the registered mail package the Landlord sent to the Tenant with his previous evidence submission.

The Landlord denied signing a document with the Tenant on December 17, 2015 agreeing to change the hearing. He affirmed that he did not agree to change the hearing date or time and at no time had the Tenant requested that he sign any document.

The Landlord submitted that the Tenant completed an application to rent form and began occupying the rental unit in December 2014. Rent of \$860.00 is payable on the first of each month plus a \$20.00 monthly laundry fee. No security deposit was paid.

The Landlord stated that when the Tenant began to fall behind on her rent he served her two copies of the 10 Day Notice to end tenancy on October 12, 2015. He submitted that the first copy was posted to her door and the second copy was personally handed to her on the same date. The 10 Day Notice listed the accumulated unpaid rent of \$1,720.00 what was due on October 1, 2015.

The Landlord testified that the Tenant continues to reside in the rental unit and has not paid any amount towards the October balance and has not paid rent for November or December 2015. The Landlord stated he appeared at the hearing because he wants to get her out and he wanted an Order of Possession.

Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

In the absence of the applicant Tenant, the telephone line remained open while the phone system was monitored for fourteen minutes and no one on behalf of the applicant Tenant called into the hearing during this time.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of any submissions from the applicant Tenant I find the Tenant failed to prove the merits of her application. I accepted the Landlord's undisputed evidence as supported by his documentary evidence and find the 10 Day Notice to be valid. Accordingly, I order the Tenant's application dismissed without liberty to reapply.

Section 55(1) of the *Act* provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing.

The Landlord attended the hearing and made an oral request for an Order of Possession. Accordingly, I granted the Order in accordance with section 55(1) of the *Act*.

Conclusion

The Tenant's application was dismissed, without leave to reapply and the Landlord's request for an Order of Possession was granted.

The Landlord has been issued an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with 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 22, 2015

Residential Tenancy Branch

