



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC, MT

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, which was filed on October 08, 2015. In the Application for Dispute Resolution before me the Tenant has only applied for more time to apply to set aside the Notice to End Tenancy for Cause.

The Landlords and the Tenant agree that in the Application for Dispute Resolution that was served to the Landlords, the Tenant also applied to set aside a Notice to End Tenancy for Cause. On the basis of this information, I find it reasonable to also consider the Tenant's application to set aside a Notice to End Tenancy for Cause.

The Tenant stated that the Application for Dispute Resolution, the Notice of Hearing, and evidence she submitted with her Application were sent to the Landlords, via registered mail, although she does not recall the date of service. The female Landlord stated that these documents were received on October 15, 2015 and that the package was postmarked October 14, 2015. As the Landlords acknowledged receipt of these documents, they were accepted as evidence for these proceedings.

The Landlords submitted 49 pages of evidence to the Residential Tenancy Branch on November 30, 2015. The Agent for the Landlord and the Tenant agree that these documents were personally served to the Tenant on November 30, 2015.

The Advocate for the Tenant argued that the Landlords' evidence should not be accepted as it was not served to the Tenant 14 days prior to the hearing. Rule 3.15 of the Residential Tenancy Branch Rules of Procedure requires a respondent to serve evidence to the applicant not less than seven days before the hearing. I find that the Landlords served their evidence to the Tenant within the timelines established by the Rules of Procedure and that the evidence should, therefore, be accepted as evidence for these proceedings.

Upon being advised that the evidence had been served in accordance with the Residential Tenancy Branch Rules of Procedure, the Advocate for the Tenant requested more time to consider the evidence.

This request for an adjournment was denied, in large part, because the evidence was served in accordance with the timelines established by the Residential Tenancy Branch Rules of Procedure. These timelines are established with the intent of providing parties a reasonable opportunity to consider the other party's evidence and to ensure that the proceedings are conducted in a timely manner.

This request for an adjournment was denied, in part, because an adjournment would delay these proceedings by approximately six weeks and, given that this dispute relates to ending the tenancy, I find that delay to be unfair to the Landlords.

This request for an adjournment was denied, in part, because the amount of evidence submitted by the Landlords was not unreasonable. In my view the evidence could have been considered, with reasonable diligence, in the amount of time available to the Tenant.

On November 30, 2015 the Landlords also submitted a one page document to the Residential Tenancy Branch. The Agent for the Landlord stated that this document was not served to the Tenant. As the document was not served to the Tenant, it was not accepted as evidence for these proceedings.

Both parties were represented at the hearing.

Issue(s) to be Decided

Should a Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside and, if necessary, should the Tenant be granted more time to apply to set aside a Notice to End Tenancy for Cause?

Background and Evidence

After being advised that this tenancy would continue until it is ended in accordance with the *Act* if the Tenant's Application for Dispute Resolution was successful or that it would end two days after the Tenant is served with an Order of Possession if the Tenant's Application for Dispute Resolution was not successful, the parties indicated they wished to enter into a settlement agreement.

The Landlords and the Tenant mutually agreed to settle the issues in dispute at these proceedings under the following terms:

- the Notice to End Tenancy for Cause that is the subject of this dispute will be withdrawn;
- the tenancy will end, by mutual agreement, on March 31, 2016; and

- the Landlords will be granted an Order of Possession which requires the Tenant to vacate the rental unit on March 31, 2016.

Analysis

The parties have settled this dispute by mutually agreeing to the aforementioned terms.

This settlement agreement does not settle any other issues in dispute regarding this tenancy, including whether the Tenant is obligated to remove buildings from the rental unit at the end of the tenancy.

Conclusion

On the basis of the aforementioned tenancy agreement, I grant the Landlords an Order of Possession that will be effective at 1:00 p.m. on March 31, 2016.

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 09, 2015

Residential Tenancy Branch

