



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPR

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) to cancel a notice to end tenancy for unpaid rent pursuant to section 46 and to recover the filing fee for this application. There was no Notice to End Tenancy provided in evidence and neither party was able to supply me with the dates on it. The tenant served the Application for Dispute Resolution on the landlord by registered mail. The tenant requests to cancel the Notice to End Tenancy.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is unpaid rent so sufficient cause to end the tenancy or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given some opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the rent is \$1150 per month but the parties disagreed about the amount of the security deposit. Neither party was sure as to when the tenancy commenced.

In evidence are some copies of cheques and emails. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

Section 52 of the Act provides that a Notice to End Tenancy by the landlord must be in writing, contain certain information and must be in the valid form. I find I am unable to determine whether or not this Notice to End Tenancy is a valid Notice as neither party provided a copy or were able to give me details of dates and other information on the Notice. Section 55 of the Act provides that the director must grant an Order of Possession to the landlord if the tenant's application is dismissed and (a) **the**

landlord's notice complies with section 52. I dismiss this Application of the tenant but I do not grant an Order of Possession for the reasons outlined above.

As discussed with the parties in the hearing, this Application is dismissed. However, the Notice to End Tenancy is not set aside or cancelled as I am unable to determine its validity. The landlord was advised to make his own Application and provide sufficient evidence, including a copy of the Notice to End Tenancy if he wants an Order of Possession and/or a monetary order for rent arrears.

Furthermore on this application, I find insufficient evidence of amounts of rent owing and the amount of the security deposit which may offset monetary awards for rent owing.

Conclusion:

The tenant's Application is dismissed but the Notice to End Tenancy dated in December sometime remains in full force and effect until otherwise determined. The landlord is at liberty to apply for an Order of Possession and/or a Monetary Order with sufficient evidence to support his Application.

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: February 03, 2016

Residential Tenancy Branch

