



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was scheduled for 11:00 a.m. on this date, via teleconference call, to hear the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause. The landlord was present or was represented at the hearing but the tenant did not appear despite leaving the teleconference call open for at least 15 minutes. Given the tenant's failure to appear at the hearing I dismissed the tenant's application.

The landlord confirmed that the tenant remains in possession of the rental unit and that the landlord seeks to regain possession of the rental unit. The landlord also stated that the tenant has not paid any rent for January 2016 or February 2016. The landlord was advised that this proceeding was not scheduled to deal with matters involving unpaid rent but that the landlord retains the right to pursue the tenant if the landlord so chooses by filing a Landlord's Application for Dispute Resolution.

The landlord pointed out that the tenant incorrectly indicated the rental unit address on the application and that "Street" should read "Avenue". I amended the application accordingly.

I noted that the Notice to End Tenancy that was submitted as evidence by the tenant was signed by the landlord's agent who the tenant named as the landlord in filing this Application but that the Notice to End Tenancy also indicates a different person as being the landlord. The landlord appearing at the hearing explained that she is the resident manager of the property who is authorized to act as a landlord on behalf of the owner of the property. Since the definition of "landlord" under section 1 of the Act includes the owner of the property or an agent of the owner, I was satisfied that the tenant sufficiently identified a landlord in completing this application and that the landlord appearing before me is entitled to the remedies afforded to a landlord under the Act.

Section 55 of the Act provides circumstances where a landlord will be provided an Order of Possession. Section 55(1) provides as follows:

- (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
 - (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Having dismissed the tenant's application to cancel a Notice to End Tenancy, I determined that the issue before me is whether the landlord is entitled to an Order of Possession pursuant to section 55(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession under section 55(1) of the Act?

Background and Evidence

The tenant provided a copy of the 1 Month Notice to End Tenancy for Cause that was the subject of this proceeding (the Notice). The Notice is in the approved form, is signed and dated by the landlord, provides the rental unit address and an effective vacancy date, and the landlord's reasons for ending the tenancy appear on the second page of the Notice.

Analysis

The issue for me to determine is whether the landlord is entitled to an Order of Possession under section 55(1) of the Act. Section 55(1) of the Act was reproduced in the "Introduction" section of this decision and I proceed to consider whether the criteria of section 55(1) have been met.

Upon review of the Notice provided as evidence by the tenant I find that it meets the form and content requirements of section 52 of the Act. Accordingly, I am satisfied that part (a) of section 55(1) has been satisfied.

Given the tenant's failure to appear at the hearing scheduled to hear his application I dismissed the tenant's application to cancel the Notice to End Tenancy. As I am a delegated authority of the Director, I find that part (b) of section 55(1) has been satisfied.

In light of the above, I find the landlord is entitled to an Order of Possession pursuant to section 55(1) of the Act. Provided to the landlord is an Order of Possession effective two (2) days after service upon the tenant.

Conclusion

The tenant's application has been dismissed and the landlord has been provided an Order of Possession pursuant to section 55(1) of the Act. The Order of Possession is effective two (2) days after service upon the tenant.

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 10, 2016

Residential Tenancy Branch

