



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order for more time to make this application.
- b. An order to cancel the one month Notice to End Tenancy dated February 23, 2016

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was served on the Tenant by mailing, by registered mail to where the tenant resides. However, the packaged was incorrectly addressed and there was a delay in the delivery of the package. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord on March 11, 2016 as the landlord has acknowledged service of the documents.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order for more time to make this application.
- b. Whether the tenant is entitled to an order to cancel the one month Notice to End Tenancy dated February 23, 2016

Background and Evidence

The tenancy began in 2007. The present rent is \$1050 payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$525 at the start of the tenancy.

The rental property is a 4-plex. The landlord failed to produce a copy of any documents or orders he may have received from the municipality. However, he testified he was told that he would have to remove the cooking facilities in the rental unit below him and as a result he is not able to rent those premises. The landlord testified that he gave the Notice to End Tenancy to the Tenant because it will be necessary for him to rent the tenant's rental unit and the rental property below as one unit and therefore a higher rent is required.

Grounds for Termination:

The grounds of the Notice to End Tenancy are as follows:

- Rental unit/site must be vacated to comply with a government order

Application for an Order for More Time to Make this Application:

I ordered that the tenant be given more time to make this application as the landlord incorrectly addressed the envelope thereby causing delays in its delivery.

Analysis:

After carefully considering all of the evidence I determined the landlord failed to establish sufficient grounds to end the tenancy for the following reasons:

- The landlord failed to produce evidence from the Municipality to prove his testimony.
- Further, even assuming his evidence accurate the landlord has failed to establish sufficient cause. The Municipality has not closed the rental unit which is the subject of these proceedings. The landlord does not have a legal right to end the tenancy where the order relates to a different rental unit. t

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has failed to establish sufficient cause to end the tenancy. As a result I ordered that the Notice to End Tenancy dated February 23, 2016 shall be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

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: April 22, 2016

Residential Tenancy Branch