



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC DRI

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, originally filed on March 29, 2016, and subsequently amended and received by the Residential Tenancy Branch on April 4, 2016 (the "Application"). The Tenant applied for the following relief pursuant to the Residential Tenancy Act (the "Act"): an order cancelling a 1 Month Notice to End Tenancy for Cause dated February 25, 2016 (the "1 Month Notice"), and an order with respect to an alleged rent increase.

Both the Tenant and the Landlord appeared at the hearing. T.C. is the property manager of the rental unit. Both parties provided their solemn affirmations. Both parties acknowledged receipt of the other's evidence packages. However, for the reasons below, full consideration of the evidence submitted was not necessary.

Background

There was no dispute that the 1 Month Notice was received by the Tenant on February 25, 2016. The Tenant confirmed receiving the 1 Month Notice on that date. Receipt of the 1 Month Notice on that date is further confirmed at page 2 of the Tenant's Application.

However, the Tenant did not apply for dispute resolution until March 29, 2016, 33 days after receiving the 1 Month Notice. During the hearing, the Tenant did not provide any explanation for the delay. I note further that the Tenant did not request more time to dispute the 1 Month Notice, pursuant to section 66(1) of the Act.

Analysis

Section 47 of the Act describes the circumstances in which a landlord can end a tenancy for cause. This provision also provides a mechanism for tenants to dispute a notice to end tenancy for cause by making an application for dispute resolution within 10

days after the date the tenant receives the notice. If a tenant does not dispute the notice within 10 days, section 47(5) creates a conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice.

Based on the documentary and oral evidence provided by the parties, I find that the 1 Month Notice was received by the Tenant on February 25, 2016. However, the Tenant did not file the Application until March 29, 2016, 33 days after receiving the 1 Month Notice.

As the Tenant did not file the Application within 10 days after receiving the 1 Month Notice, he is conclusively presumed to have accepted the tenancy ended on the effective date of the 1 Month Notice. Accordingly, the Tenant's Application is dismissed without leave to reapply, and the 1 Month Notice is upheld.

When a tenant's application to dispute a landlord's notice to end tenancy is dismissed, section 55 of the Act requires that I grant an order of possession to the landlord. Accordingly, I grant the Landlord an order of possession, which will be effective two days after service upon the Tenant.

Conclusion

In light of the above, the Tenant's Application is dismissed, without leave to reapply, and the 1 Month Notice is upheld.

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord on the terms above. This Order may be filed in the Supreme Court and enforced as an order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 29, 2016

Residential Tenancy Branch