



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1012 MAIN ST. HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT, CNR

Introduction

The tenant applies to cancel a one month Notice to End Tenancy for cause (repeated late payment of rent) and for more time to make his application. By amendment to his claim he sought to cancel a ten day Notice to End Tenancy for unpaid October rent but the landlord confirms the rent was paid and that the ten day Notice is no longer of any effect.

Issue(s) to be Decided

Can the tenant be granted more time to make his application to cancel the one month Notice?

Background and Evidence

The rental unit is a single room occupancy unit. The tenancy started in around 2010. The current monthly rent is \$415.00.

It is agreed that the tenant received the one month Notice on August 30, 2016. The Notice is dated August 26 and gives an effective date of September 30, 2016.

The tenant brought his application on October 7, 2016.

Analysis

Section 47(4) of the *Residential Tenancy Act* (the “Act”) requires that a tenant apply to cancel a one month Notice within ten days after receipt. The tenant did not do so here.

Section 47 states that if a tenant fails to apply within time he is “conclusively presumed” to have accepted the end of his tenancy on the effective date in the Notice.

Section 66 of the *Act* permits an arbitrator to extend such a time limit in exceptional circumstances, but s. 66(3) provides that the director (thus an arbitrator acting under her authority) must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

The tenant's application was made after the September 30, 2016 effective date of the Notice and so time cannot be extended, even in exceptional circumstances, to challenge the Notice.

As a result, the Notice is a valid Notice and has had the effect of ending this tenancy on September 30, 2016. By operation of s. 55 of the *Act*, the landlord is entitled to an order of possession.

Conclusion

The tenant's request for more time to apply, and this his application, are dismissed. The landlord will have an order of possession.

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: November 29, 2016

Residential Tenancy Branch