



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 66;
- cancellation of the landlord's 1 Month pursuant to section 47; and
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 62.

The tenant and landlord attended the hearing. At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

Both parties were given full opportunity to provide affirmed testimony and present their evidence. I have reviewed all testimony and other evidence.

Preliminary Issue – More Time

The tenant testified that she received the landlord's 1 Month Notice, dated September 15, 2016 by way of posting to the rental unit door, on September 16, 2016.

Section 47(4) of the *Act* provides that upon receipt of a notice to end tenancy the tenant may, within 10 days after receiving the notice, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch ("RTB").

Because the 1 Month Notice has been duly served on September 16, 2016 the tenant was required to file her application to dispute the 1 Month Notice no later than September 26, 2016. The tenant filed her application on October 24, 2016, well past the allotted time.

Under section 66 of the *Act*, the director may extend a time limit established by the *Act*, in exceptional circumstances.

The tenant testified that she was unable to file in time because she has medical issues which prevented her from taking transit to the RTB. In particular, the tenant explained that she has a concussion and provided medical documents to support this claim.

In regards to the medical issues, the documentary evidence shows that the tenant had some medical testing completed on September 12, 2012 and a follow up doctor's appointment on October 13, 2016. I find these records are insufficient to establish exceptional circumstances existed which prevented the tenant from filing an application in time. Additionally it should be noted that an applicant is not required to attend the RTB in person to file a claim, as evidenced by the tenant's late application, which was submitted on-line.

For the above reasons, I dismiss the tenant's application for more time to make an application to cancel the landlord's 1 Month Notice. As the tenancy is set to end, and an order for compliance may only be sought in relation to an ongoing tenancy, I dismiss the tenant's application for an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement.

Analysis

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Based on the landlord's testimony and the 1 Month Notice before me, I find the 1 Month Notice complies in form and content. As the 1 Month Notice complies in form and content and as the tenant's application has been dismissed I find that the landlord is entitled to an order of possession.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

An order of possession is granted to the landlord effective December 31, 2016 at 1:00 p.m.

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: December 15, 2016

Residential Tenancy Branch