



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC

Introduction

The Application for Dispute Resolution filed by the Tenants seeks an order to cancel the 10 day Notice to End Tenancy dated February 2, 2017

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 posting on February 2, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was filed by the Tenants was served on the landlord by mailing, by registered mail to where the landlord carries on business on February 14, 2017. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issue to be decided is whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated February 2, 2017?

Background and Evidence:

The tenancy began on September 3, 2016. There is a dispute between the parties as to how much the rent is and whether it has been paid.

JM appeared on behalf of the Tenants. He was not named as a Tenant in the within application. However, he is named as a Tenant in the 10 day Notice to End Tenancy. JM stated he was acting as an agent for the Tenants.

The landlord stated the landlord and WR, one of the Tenants attended a previous hearing which was held on February 16, 2017 to consider the Tenants' application to

cancel a 10 day Notice to End Tenancy dated January 16, 2017 for non-payment of rent. At that hearing the parties mutually agreed to end the tenancy on February 28, 2017 and an Order for Possession was issued by the arbitrator for that date.

The tenant stated that he had applied for review of that decision and was also applying for judicial review. He further stated that he was prepared to agree to end the tenancy at the end of March 2017.

Analysis:

I determined that as the landlord already has an Order of Possession based on a mutual agreement to end the tenancy for February 28, 2017 that it would be moot to consider the tenant's application. That Order of Possession is binding on the parties unless it is set aside or suspended by review.

As a result I dismissed the tenants' application to cancel the Notice to End Tenancy with leave to re-apply should the Order of Possession that set the end of tenancy for February 28, 2017 is set aside.

I declined the tenant's request that I put on record that the Translator does not have the authority to act for the landlord as I determined a determination of that issue was not relevant. Similarly I declined the request by the Translator and agent that I issue a monetary order against the tenants as the landlord has not filed an Application for Dispute Resolution making such a claim.

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: March 10, 2017

Residential Tenancy Branch