



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, O

Introduction

This hearing was scheduled for 9:30 a.m. on this date, via teleconference call, to deal with a tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") issued on February 26, 2017. The landlords appeared at the hearing but the tenant did not despite leaving the teleconference call open for approximately 30 minutes.

Preliminary and Procedural Matters

The tenant misspelled the landlords' last name in filing her application and I have amended the application to provide for the correct spelling, as seen on the subject 10 Day Notice, and confirmed by the landlords at the hearing.

The landlords pointed out that the tenant did not file to dispute the 10 Day Notice within the time limit for doing so. The landlords testified that they gave the 10 Day Notice to the tenant's adult son, who was apparently residing at the rental unit, on February 26, 2017. The landlords testified that they then sent another copy of the 10 Day Notice to the tenant via registered mail. Section 88 of the Act provides that serving an adult person who apparently resides with the tenant at the rental unit is permissible service of a document, including a Notice to End Tenancy. Accordingly, it would appear that the landlords duly served the tenant with the 10 Day Notice on February 26, 2017 and she did not file her Application for Dispute Resolution until March 7, 2017 which is more than five days after the 10 Day Notice was served. I noted that the tenant did not indicate how or when she received the 10 Day Notice in filing her Application and she failed to appear at the hearing to address this issue. Given the tenants failure to appear at the hearing, I dismissed her application entirely, without leave to reapply.

Since I dismissed the tenant's application, it is before me to consider section 55(1) of the Act which states:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Issue(s) to be Decided

Should the landlords be provided an Order of Possession under section 55(1) of the Act?

Background and Evidence

A copy of the two page 10 Day Notice that is the subject of this Application for Dispute Resolution was provided to me by the tenant. It provides for the names and service addresses of the tenant and the landlord, the address of the rental unit and a reason for ending the tenancy; and, it is signed and dated by the landlord and has an effective date.

The tenant filed to dispute the 10 Day Notice but her application has been dismissed for the reasons indicated previously in this decision.

Analysis

Having dismissed the tenant's application to cancel the 10 Day Notice, I must be satisfied that the Notice to End Tenancy complies with section 52 of the Act in order to provide the landlords with an Order of Possession under section 55(1) of the Act.

Section 52 of the Act provides:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,

- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and
- (e) when given by a landlord, be in the approved form.

The Notice to End Tenancy before me was issued under section 46 of the Act meaning section 52(d.1) is not applicable. Upon review of the 10 Day Notice issued on February 26, 2017, I find that it meets the form and content requirements of section 52.

In light of all of the above, I find all of the criteria of section 55(1) have been met and I must provide the landlords with an Order of Possession. Provided to the landlords with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Conclusion

The tenant's application to cancel the 10 Day Notice dated February 26, 2017 has been dismissed. Pursuant to section 55(1) of the Act the landlords have been provided an Order of Possession effective two (2) days after service upon the tenant.

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 06, 2017

Residential Tenancy Branch