



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to allow more time to make an application to cancel a notice to end tenancy that was received on March 9, 2017, and to cancel a 10 Day Notice to End Tenancy for Unpaid rent (the "Notice"), issued on March 9, 2017.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Preliminary Issue

The first issue that I must determine is whether to permit the tenant's application to proceed.

The tenant acknowledged that they received the Notice on March 9, 2017, under the provisions of the Act the tenant had five days to file an application for dispute resolution. The tenant's application was filed on March 17, 2017, requesting to allow more time to make an application to cancel a notice to end tenancy.

Under section 66(1) of the Residential Tenancy Act, an extension of time can only be granted where the applicant has established that there are exceptional circumstances.

In this case the tenant stated that they were waiting for their cheque to arrive in the mail and they thought they would be able to pay the rent within 5 days cancelling the Notice; however, their cheque was not received.

I find the tenant's action of waiting for their cheque to arrive is not an exceptional circumstance, such as a medical emergency, that prevented them from filing their application.

Therefore, I dismiss the tenant's application to allow a tenant more time to make an application to cancel a notice to end tenancy.

Further, I find that there is no merit to the tenant's application. In particular, the tenant admitted that rent was owed when he received the notice and that amount was not paid within the five days required by the Act.

Order of possession for the landlord

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.

As the tenant's application is dismissed, I find pursuant to section 55 of the Act I must grant the landlord an order of possession of the rental unit.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's application to allow more time to file an application to cancel a notice to end tenancy is dismissed. The landlord is granted 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: April 19, 2017

Residential Tenancy Branch