



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AS, CNC, CNR, MT, FF, MNR, OPC

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlord. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a 1 month Notice to End Tenancy that was given for cause, a request for a monetary order for \$1420.00, and a request for recovery of the \$100.00 filing fee.

The tenant's amended application is a request to cancel the 1 month Notice to End Tenancy, a request to cancel a 10 day Notice to End Tenancy, a request for more time to file a dispute of a Notice to End Tenancy, and a request to allow the tenant to sublet.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicants have put on their applications

Section 2.4 of the rules of procedure states:

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

In this case it is my finding that not all the claims on these applications are sufficiently related to the main issues to be dealt with together.

I therefore will deal with the request to cancel or uphold the notices to end tenancy, and the request for recovery of the filing fee, and I dismiss the remaining claims with liberty to re-apply.

I dealt first with the request to cancel or uphold the 1-month Notice to End Tenancy.

Background and Evidence

The parties agree that this tenancy began on September 1, 2015 and that the monthly rent is \$850.00, due on the first of each month.

The landlord testified that on April 10, 2017 he personally served the tenant with a one-month Notice to End Tenancy.

The tenant admitted receiving the one-month Notice to End Tenancy on April 10, 2017; however the tenant did not file for dispute resolution until April 26, 2017, 16 days after receiving the notice.

The tenant is requesting more time to make his application to cancel the notice stating that he went to work out of town and he did not take the Notice to End Tenancy with him, and therefore he was unable to dispute the notice within the required 10 day timeframe.

Analysis

Sections 47(4) & 47(5) of the Residential Tenancy Act state:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

The tenant has admitted that he did not file his dispute within the required time limit and is requesting an extension of time however section 66(1) of the Residential Tenancy Act states:

66 (1) The director may extend a time limit established by this Act **only in exceptional circumstances**, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*. **(My emphasis)**

In this case, it is my finding that the tenant has not shown that there were exceptional circumstances that would justify my extending the time to apply for dispute resolution.

The tenant has stated that he was aware of the requirement to file within the ten-day time frame, but failed to take his papers with him when he went to work out of town. I do not find this to be an exceptional circumstance, especially since the Notice to End Tenancy makes it clear that an extension would only be granted if a party has a serious and compelling reason for not filing on time.

Therefore, pursuant to section 62 of the Residential Tenancy Act, it is my decision that I will not cancel the Notice to End Tenancy and I will be issuing an Order of Possession to the landlord.

I also allow the landlords request for recovery of his \$100.00 filing fee.

As this tenancy is ending pursuant to the 1 month Notice to End Tenancy, there is no need for me to make any finding on the validity of the 10 day Notice to End Tenancy.

Conclusion

The tenant's application to cancel a 1 month Notice to End Tenancy is dismissed without leave to reapply. The tenant's application to be allowed to sublet the rental unit is a moot point as this tenancy is ending.

The landlord's application for an Order of Possession has been granted and I have issued an Order of Possession that is enforceable two days after service on the tenant.

I have issued an order for the tenant to pay \$100.00 to the landlord for recovery of the filing fee however the remainder of the landlord's monetary claim is dismissed, with leave to reapply.

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: June 06, 2017

Residential Tenancy Branch