



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NATHAN ANDREW MCKAY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause and to recover the filing fee.

At the start of the hearing the Arbitrator asked the Tenant's Counsel why there the One Month Notice to End Tenancy for Cause was not submitted with the application. Counsel said he thought that the Landlord would submit the Notice to End Tenancy so he did not include it with the application. The Tenant's Counsel continued to say that he believes the Landlord sent an email to the Branch canceling the hearing as the Landlord has rescinded the Notice to End Tenancy given to the Tenant. The Landlord did not attend the hearing, so it was not possible to confirm if the Landlord had rescinded the Notice to End Tenancy or if the Notice to End Tenancy was valid.

Consequently as there is no Notice to End Tenancy in the evidence package it is not possible to determine if the Notice is valid or not. I find there is a lack of evidence to proceed with the hearing and therefore; I dismiss the Tenant's application with leave to reapply with in the legislated time limits.

Further as the Landlord did not appear to defend the Notice to End Tenancy and there was no Notice to End Tenancy in the evidence there is no grounds to issue an Order of Possession pursuant to section 55 of the Act. .

Conclusion

The Tenant's application 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: March 06, 2018

Residential Tenancy Branch