



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

The Landlord was present for the teleconference hearing, while no one called in for the Tenants during the approximately 10 minutes that the phone line remained open. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and stated that she served the Tenants with a copy of her evidence.

Preliminary Matter

During the hearing, the Landlord clarified the address of the rental unit, as it was not complete on the Application for Dispute Resolution. The Application was amended to include the correct dispute address as confirmed by the Landlord. This amendment was made pursuant to Section 64(3)(c) of the *Act*.

Issues to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

If the One Month Notice to End Tenancy for Cause is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

At the outset of the hearing, the Landlord confirmed that she received an Order of Possession for the rental unit, dated September 12, 2018. The Order of Possession was submitted into evidence by the Landlord and was based on a 10 Day Notice to End Tenancy for Unpaid Rent.

The Order of Possession was effective two days after service. The Landlord provided affirmed testimony that she served the Order of Possession to the Tenants on September 12, 2018, although they are still residing in the rental unit.

Analysis

As the Landlord has served the Tenants with an Order of Possession, I find that this tenancy has already ended, and therefore there is no longer a One Month Notice in dispute. As the Tenants did not attend the hearing based on their own application, their application is dismissed, in accordance with the *Residential Tenancy Branch Rules of Procedure*.

Section 55 of the *Act* states that when a tenant's application to cancel a notice to end tenancy is dismissed, the landlord may be granted an Order of Possession. However, I accept the evidence before me that an Order of Possession has already been served to the Tenants.

Therefore, I cannot issue an Order of Possession as a decision on this tenancy has already been made. The Landlord may take steps to enforce the existing Order of Possession.

Conclusion

The Tenants' Application for Dispute Resolution is dismissed, without 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: October 15, 2018

Residential Tenancy Branch