



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MT, DRI

Introduction

This hearing was scheduled for 9:30 a.m. on this date, via teleconference call, to deal with the tenant's application to cancel a *2 Month Notice to End Tenancy for Landlord's Use of Property* ("2 Month Notice"); more time to dispute the 2 Month Notice; and, to dispute a rent increase. The landlord appeared and was represented by two other individuals at the hearing (herein referred to collectively as "landlords" in this decision). There was no appearance on part of the tenant despite leaving the teleconference call open for at least 15 minutes.

The landlords confirmed that the tenant had served the landlord with a copy of the Notice of Dispute Resolution Proceeding and the tenant's Application for Dispute Resolution, along with a copy of the 2 Month Notice. The landlords confirmed they were prepared to respond to the tenant's request to cancel the 2 Month Notice and other issues identified on the application. Since the tenant failed to appear at his hearing, I dismissed his application in its entirety without leave to reapply.

The landlords stated that it appears the tenant may have already abandoned the rental unit; however, that has not yet been confirmed. In the event the tenant has not already vacated or abandoned the rental unit, the landlord requested an Order of Possession.

I noted that the tenant had not provided a copy of the 2 Month Notice to the Residential Tenancy Branch as he was required to do when disputing a Notice to End Tenancy. The landlord read from portions of the 2 Month Notice during the hearing. As permitted by the Rules of Procedure, I authorized and ordered the landlord to upload a copy of the 2 Month Notice to the Residential Tenancy Branch service portal immediately after the teleconference call ended so that I may verify that it meets the form and content requirements of the Act. A few moments after the teleconference call ended the landlord uploaded all three pages of a 2 Month Notice.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The tenant filed to dispute a *2 Month Notice to End Tenancy for Landlord's Use of Property* that was personally served upon him on July 26, 2018. The 2 Month Notice is dated July 26, 2018 and has a stated effective date of "September 31, 2018". The 2 Month Notice is in the approved form and is duly completed, including: a reason for ending the tenancy, the name and address for the tenant and landlord, and the landlord's signature.

I am satisfied the tenant filed to dispute the 2 Month Notice within the time limit for doing so; however, I have dismissed his application to cancel the 2 Month Notice due to his failure to appear at the hearing as explained previously in this decision.

Analysis

Section 55(1) of the Act provides as follows:

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.

In this case, I have dismissed the tenant's application to cancel the 2 Month Notice. Upon review of the 2 Month Notice provided to me, I am satisfied that it meets the form and content requirements of section 52 of the Act. Accordingly, I find the criteria of section 55(1) have been met and the landlord is entitled to an Order of Possession.

I note that the stated effective date on the 2 Month is incorrect in that there are not 31 days in September. I amend the 2 Month Notice to read September 30, 2018 and I

provide the landlord with an Order of Possession effective at 1:00 p.m. on September 30, 2018.

As I informed the landlords during the hearing, when a tenant vacates or abandons a rental unit, possession automatically reverts to the landlord and an Order of Possession is not required. As such, the Order of Possession provided to the landlord with this decision need only been served and enforced if the tenant has not already vacated or abandoned the unit.

Conclusion

The tenant's application has been dismissed without leave to reapply.

The landlord is provided an Order of Possession effective on September 30, 2018 to serve and enforce upon the tenant in the event the tenant has not already vacated or abandoned the rental unit.

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: September 27, 2018

Residential Tenancy Branch