



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR CNC

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

Tenant:

- cancellation of the landlord’s One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47;

The hearing was conducted by conference call. The landlord did not attend this hearing. The tenant attended the hearing and was given a full opportunity to provide affirmed testimony.

The tenant testified that on December 5, 2018, she personally served the landlord with a copy of the Application for Dispute Resolution and Notice of Hearing.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act.

The landlord also subsequently filed his own application which was scheduled to be heard at this same time so the landlord ought to have known about the hearing date, time and call in instructions. The hearing proceeded in the absence of the landlord.

As the landlord failed to attend and provided no proof that the tenant was served with his application, the landlord’s application is dismissed with leave to reapply.

Issues

Should the One Month Notice be cancelled? If no, is the landlord entitled to an order of possession for cause?

Background and Evidence

The tenant is disputing a One Month Notice dated November 26, 2018. The tenant's application was filed on December 3, 2018 within the time period required under the Act.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

The landlord did not participate in the hearing and as such has failed to provide sufficient evidence to justify cause to issue the One Month Notice. Accordingly, the One Month Notice to End Tenancy dated November 26, 2018, is hereby cancelled and of no force or effect.

Conclusion

I allow the tenant's application to cancel the landlord's One Month Notice, dated November 26, 2018, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the Act.

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: January 11, 2019

Residential Tenancy Branch