



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice").

The landlord did not attend this hearing which lasted approximately 10 minutes. The tenant attended and was given a full opportunity to present their sworn testimony, to make submissions, and to call witnesses.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

The tenant gave the following undisputed evidence. The tenant received a 10 Day Notice dated January 2, 2019 on that date. The tenant filed an application for dispute resolution on January 7, 2019 and served it on the landlord with their evidence on January 8, 2019 by registered mail. The tenant provided a Canada Post tracking number as evidence of service.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for non-payment of rent the tenant may, within ten days, dispute the notice by filing an

application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has filed the application for dispute resolution on January 7, 2019, within the ten days allotted after being served on January 2, 2019.

I accept the tenant's evidence that they served the landlord with the application and evidence by registered mail sent on January 8, 2019. Based on the evidence I find that the landlord was deemed served in accordance with sections 88, 89 and 90 of the *Act* on January 13, 2019, five days after mailing. .

When the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 10 Day Notice. Because the landlord did not attend the hearing, I find the landlord has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 10 Day Notice.

Conclusion

The tenant's application to cancel the 10 Day Notice is allowed. The Notice is of no continuing force or effect. This tenancy continues until 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: February 15, 2019

Residential Tenancy Branch