



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”).

The Landlord and Tenant were both present for the teleconference hearing and were affirmed to be truthful in their testimony. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. Although the Tenant stated that she did not receive a copy of the Landlord’s evidence, the Landlord testified that his evidence was sent to the Tenant by registered mail at the address listed on the notice of hearing documents. Service of evidence was not discussed further as the parties confirmed that the tenancy had ended and therefore there was no longer a 10 Day Notice in dispute.

Issues to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent be cancelled?

If the 10 Day Notice to End Tenancy for Unpaid Rent is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

At the outset of the hearing, the Tenant confirmed that she no longer resided at the rental unit and the Landlord confirmed that he had possession of the rental unit back. As

such, I find that there is no longer a 10 Day Notice in dispute as the tenancy has ended. No further testimony or evidence was heard.

Analysis

As stated by rules 2.2 and 6.2 of the *Residential Tenancy Branch Rules of Procedure*, the hearing is limited to the claims stated on the application. As there is no longer a 10 Day Notice in dispute, I dismiss the Tenant's application to cancel the 10 Day Notice, without leave to reapply.

As stated in Section 55(1) of the *Act*, when a tenant's application to cancel a notice to end tenancy is dismissed, the landlord must be granted an Order of Possession. However, as the parties confirmed that the Landlord has possession of the rental unit, I find that an Order of Possession is not necessary.

Both parties are at liberty to file a new Application for Dispute Resolution should they believe that there are any outstanding claims from this tenancy.

Conclusion

This tenancy has ended. The Tenant's application to cancel the 10 Day Notice 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: February 28, 2019

Residential Tenancy Branch