



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN MENTAL HEALTH ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, MT

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause and for more time to do so.

The tenant was represented by his advocate. The tenant's advocate testified that on June 17, 2019, he served the notice of hearing on the landlord by registered mail to the landlord's service address as provided to the tenant on the notice to end tenancy. The tenant filed a copy of the tracking slip. The package was returned to the tenant as unclaimed.

Residential Tenancy Policy Guideline No. 12 provides that, where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Based on the tenant's evidence and pursuant to section 89 and 90 of the *Act*, I find that the landlord has been deemed served with the tenant's dispute resolution hearing package on June 22, 2019, 5 days after the mailing of the package.

The landlord did not attend the hearing. The tenant's advocate attended the hearing and was given full opportunity to present evidence and make submissions.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to more time to dispute the notice to end tenancy?

Analysis

On May 22, 2019, the landlord served the tenant with a notice to end tenancy for cause.

In order to support the notice to end tenancy, the landlord must prove the grounds alleged as the reason for the notice to end tenancy. The landlord did not file any documents into evidence and did not attend the hearing.

Without additional testimony and evidence to support the reasons for the notice to end tenancy, the landlord has not met the burden of proof and therefore I allow the tenant's application and set aside the landlord's notice to end tenancy.

Conclusion

The notice to end tenancy is set aside and the tenancy shall continue.

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: July 25, 2019

Residential Tenancy Branch