



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for landlord's use of property.

The tenant was accompanied by her advocate. The tenant testified that on August 02, 2019, she 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 provided a tracking number.

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 August 07, 2019, 5 days after the mailing of the package.

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

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Analysis

On July 23, 2019, the landlord served the tenant with a notice to end tenancy for landlord's use of property.

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 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: September 30, 2019

Residential Tenancy Branch