



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC LAT LRE OLC

Introduction

This hearing convened this date by way of conference call concerning an application made by the tenant seeking the following relief:

- an order cancelling a notice to end the tenancy for cause;
- an order permitting the tenant to change the locks to the rental unit;
- an order limiting or setting conditions on the landlord's right to enter the rental unit; and
- an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement.

The landlord and the tenant attended the hearing, during which the parties agreed that the landlord was successful in obtaining an Order of Possession under the *Residential Tenancy Act* yesterday, and the landlord orally provided a Residential Tenancy Branch file number.

No one has provided me with a copy of a notice to end the tenancy, and the parties agreed that there have been a number of notices given to the tenant but neither party was able to describe what type of notices or when they were issued or when other hearings may have taken place. However, the tenant has agreed that the landlord has served an Order of Possession which is dated yesterday.

I explained to the parties the principles of *Res Judicata*, which prevents me from hearing a dispute that has already been adjudicated upon. Given that the tenant has not provided a copy of any notices to end the tenancy I am not satisfied that the tenant's application hasn't already been decided upon.

Where a tenant disputes a notice to end a tenancy the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, however, since the landlord has been granted an Order of Possession and since I have no copy of a notice to end the tenancy that may or may not be related to that Order, I dismiss the tenant's application in its entirety.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety.

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: December 10, 2019

Residential Tenancy Branch