



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, FFT

Introduction

This hearing was scheduled to deal with a tenant's application to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities; and, for orders for the landlord to comply with the Act, regulations or tenancy agreement.

The landlord appeared at the hearing; however, there was no appearance on part of the tenants despite leaving the teleconference call open for at least 10 minutes.

The landlord testified that he was not served with a proceeding package by the tenants. Rather, he learned of this hearing after he received an email from the tenants and then the Residential Tenancy Branch. The landlord contacted the Branch to obtain the hearing information.

Since the tenants did not appear for their hearing but had not served the landlord with their Application for Dispute Resolution, I dismiss their Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limit.

The tenants had not provided a copy of the 10 Day Notice they intended to dispute. Nor, was a copy provided by the landlord. Therefore, I am unable to verify that a valid and enforceable 10 Day Notice was served upon them as required in order for me to issue an Order of Possession under section 55(1) of the Act, and I do not provide an Order of Possession based on a 10 Day Notice to the landlord with this decision.

The landlord requested that I provide him with an Order of Possession based upon a Mutual Agreement to End Tenancy signed on January 15, 2020 with an effective date of April 30, 2020. The landlord had uploaded a copy of a Mutual Agreement to End

Tenancy to the Residential Tenancy Branch a few days before this hearing but did not notify the tenants of his intention to appear for the hearing and ask for an Order of Possession based on a Mutual Agreement to End Tenancy. I declined to consider the landlord's request since the tenants were not present to confirm they had signed a Mutual Agreement to End Tenancy and the tenants would not have had a reasonable expectation that I would making a decision on a Mutual Agreement to End Tenancy based on their application that pertained to other issues. The landlord was informed of his right to make his own Application for Dispute Resolution to seek an Order of Possession based on the Mutual Agreement if she choses.

Conclusion

The tenant's application has been dismissed with leave to reapply; however, this does not extend any applicable time limit. I have not issued an Order of Possession with this decision for reasons provided in this decision; however, the landlord is at liberty to make his own Application for Dispute Resolution to apply for an Order of Possession.

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: January 28, 2020

Residential Tenancy Branch