



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT

Introduction

This hearing dealt with the tenant's application pursuant to the Residential Tenancy Act (the Act) for:

- cancellation of the 10 Day Notice to End Tenancy pursuant to section 46(4) of the Act;
- request for more time to cancel a Notice pursuant to section 66(1) of the Act.

The Applicant called into this teleconference at the date and time set for the hearing of this matter. The respondent did not, although I waited until 9:43 A.M. to enable her to connect with this teleconference hearing scheduled for 9:30 A.M.

Rule 7.1 of the Rules of Procedure provides as follows:

7.1 Commencement of the hearing: The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any attendance at this hearing by the landlord the hearing commenced.

The tenant testified that she served the landlord with her application for dispute resolution and evidentiary materials via registered mail on February 13, 2020. A Canada

Post receipt evidencing the registered mailing was entered into evidence. A copy of the receipt number is entered on the first page of this decision.

The tenant advised that the registered mailing had been returned by Canada Post. The tenant testified that she spoke to the caretaker SN informing her of the dispute resolution hearing, but the caretaker advised that she was not dealing with the issue.

I find that the landlord was served with the tenant's application for dispute resolution and evidence package in accordance with section 89 and 90 of the *Act* and sufficiently served under section 71 of the *Act*.

I note that section 55 of the *Act* requires that when a tenant submits an application for dispute resolution seeking to cancel a Notice issued by a landlord I must consider if the landlord is entitled to an order of possession if the application is dismissed.

Issue to be Decided

1. Is the tenant entitled to cancel the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*?
2. Is the tenant entitled to more time pursuant to section 66(1) of the *Act*?
3. Is the landlord entitled to an Order of Possession pursuant to section 55 of the *Act*?

Background and Evidence

The tenant testified that the tenancy started on December 1, 2019. Rent is \$1,050.00 per month, due on the first day of the month. At the outset of the tenancy a security deposit of \$500.00 was collected which the landlord still holds it in Trust. The tenant continues to reside at the rental property.

The tenant was served with the landlord's 10 Day Notice to End Tenancy for unpaid Rent (the "Notice"), dated February 5, 2020 in person by the caretaker SN on February 6, 2020.

The Notice indicates an effective move-out date of February 16, 2020.

The grounds to end the tenancy cited in the Notice were:

- 1) the tenant owes the sum of \$1,050.00 rent that was due January 1, 2020

The landlord did not attend the hearing to present any submissions in relation to the Notice and the tenant did not upload any evidence disputing the landlord's Notice.

Analysis

In the absence of the landlord I find that they have failed to provide sufficient evidence to prove on a balance of probabilities any of the grounds set forth in the notice to end tenancy.

The Notice is cancelled and is of no force or effect and the tenancy shall continue until ended in accordance with the *Act*.

Conclusion

I grant the tenant's application to cancel the Notice issued. The Notice is cancelled and is of no force or effect and the tenancy continues until ended in accordance with the *Act*.

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: March 25, 2020

Residential Tenancy Branch