



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, OPT, RR, PDF, RP, LRE, FFT

Introduction

On October 2, 2020, the Tenants submitted an Application for Dispute Resolution under the Residential Tenancy Act seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Tenants also applied for a rent reduction; for the Landlord to provide services and facilities required by law; for a repair order; and to suspend or set conditions on the Landlords right to enter the rental unit. On October 28, 2020 the Tenants amended their application to include a dispute of a One Month Notice to End Tenancy for Cause; and for an order of possession for the Tenants.

This matter was set for hearing by telephone conference call at 11:00 am on this date. The Landlord appeared at the hearing; however, the Tenants / applicants did not. The line remained open while the phone system was monitored for ten minutes and the applicants did not call into the hearing during this time. Therefore, as the applicants did not attend the hearing by 11:10 am to pursue their application, I dismiss the application without leave to reapply.

The Landlord requested an order of possession based on issuance of a One Month Notice to End Tenancy for Cause.

Issue to be Decided

- Is the Landlord entitled to an order of possession for the rental unit?

Background and Evidence

The Landlord testified that the tenancy started in February 2008 and is on a month to month basis. Rent in the amount of \$1,246.00 is to be paid to the Landlord each month.

The Landlord's testified that they never served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Landlords testified that they issued the Tenants a One Month Notice to End Tenancy for Cause dated October 2, 2020 ("the One Month Notice") in person on October 2, 2020. The Landlords provided a copy of the One Month Notice.

The One Month Notice provides information for Tenants who receive the Notice. The Notice provides that a tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The One Month Notice cites the reason for ending the tenancy as:

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.

On October 28, 2020 the Tenants amended their application for Dispute Resolution to include a dispute of the One Month Notice. Since the Landlords never issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, it appears the Tenants intended to dispute the One Month Notice when they applied on October 2, 2020. Nevertheless, the Tenants failed to attend the hearing to pursue their application.

The Landlords testified that rent for December 2020 was paid and the Landlords are seeking an order of possession for the rental unit based on the One Month Notice.

Analysis

Under section 55 of the Act, when a Tenants application to cancel a notice to end tenancy is dismissed and I am satisfied that the notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

Based on the above, the testimony and evidence of the Landlords, and on a balance of probabilities, I find as follows:

The Tenants received the One Month Notice and applied for Dispute Resolution to cancel the One Month Notice but failed to attend the hearing. Therefore, I dismiss the Tenants Application to cancel the One Month Notice to End Tenancy for Cause dated October 2, 2020.

I find that the One Month Notice issued by the Landlords meets the requirements for form and content.

I find that the Landlords are entitled to an order of possession effective no later than 1:00 pm on December 31, 2020 after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Tenants failed to attend the hearing to pursue their application to dispute a One Month Notice to End Tenancy for Cause. The Tenants' application to cancel the One Month Notice is dismissed.

The Landlords are granted an order of possession effective no later than 1:00 pm on December 31, 2020 after service on the Tenants.

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, 2020

Residential Tenancy Branch