



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MT, CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the "Act") to dispute a One Month Notice to End Tenancy for cause (the "Notice"), issued on January 28, 2021 and I need more time to dispute this notice

Only the landlord appeared.

This hearing was scheduled at the request of the tenant for today's date. The tenant did not appear. On May 14, 2021, the Residential Tenancy Branch sent a reminder notification to the tenant of today's hearing, to the email address they provided in their application. This matter was set for hearing by telephone conference call at 9:30 A.M on this date, as the tenant did not appear, the hearing proceeded in their absence..

The line remained open while the phone system was monitored for twenty-five minutes and at no time did the tenant call into the hearing.

Issues to be Decided

Should the tenant be given more time to dispute the Notice?
Should the Notice be upheld or cancelled?

Background and Evidence

The tenancy agreement shows that the tenancy began on June 1, 2012. Rent in the amount of \$750.00 was payable on the first of each month..

The landlord testified that the tenant was served with the Notice on January 30, 2021, in person which was witness. The landlord stated that the tenant did not make their application to dispute the Notice within the statutory time limit. The landlord stated that

the tenant is still in the rental unit and seeks an order of possession. Filed in evidence is a copy of the Notice.

The tenant writes in their application that they received the Notice on February 1, 2012 and made their application on February 11, 2021. The details written in their application reads as follows:

“I’m disputing the length of time she gave me, not that I must move ..”

[Reproduced as written.]

Analysis

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

The first thing that I must consider is whether the tenant should be granted more time to dispute the Notice.

In this case, the written submission of the tenant stated that they received the Notice on February 1, 2021 and made their application to dispute the Notice on February 11, 2021. The evidence of the landlord was that it was served on January 30, 2021, in person. I find the tenant was served with the Notice on January 30, 2021. The tenant’s application was made on February 11, 2021, which is outside the statutory time limit.

The tenant did request more time to dispute the Notice in their application. Under section 66 of the Act, more time can only be granted if the tenant can prove that they had an exceptional circumstance that prevented them from making their application within the statutory time limit to dispute the Notice. Since the onus is on the tenant to prove they had an exceptional circumstance, I find in the absent of any evidence from the tenant, that they have failed to prove they had an exceptional circumstance that prevented them from making their application within the statutory time limit. Therefore, I dismiss the tenant’s application for more time.

Further, the tenant was not disputing the merits of the Notice, as they simply wanted more time to vacate. I find this is an abusive of the process. Under section 47(5) of the Act, the tenant was required to vacate the premises on February 28, 2021, this was the date specified in the Notice.

Since I have dismissed the tenant’s application, I find it not necessary to consider the merits for ending the tenancy as the tenant was not disputing that they must move.

However, I must determine whether the landlord has met the statutory requirements under the Act to end the tenancy.

I accept the evidence of the landlord's that the Notice was completed in accordance with Part 4 of the Act; How to End a Tenancy, pursuant to section 47 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the proper form and meets the statutory requirements under section 52 the Act to the form and content.

Further, I accept the evidence of the landlord that the tenant was served with the Notice in compliance with the service provisions under the Act, as the tenant acknowledged service of the Notice in their application.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act on how to end a tenancy. The Notice was issued in the proper form and content in compliance section 52 of the Act and was served upon the tenant. Therefore, I find the Notice is valid and must be upheld.

Since the tenant's application was dismissed, and I have found the landlord has met the statutory requirements under the Act to end the tenancy. I find the tenancy legally ended on February 28, 2021, and the tenant is overholding the premises. I find the landlord is entitled to an order of possession pursuant to section 55 of the Act.

Therefore, I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's application had no merit and is dismissed without leave to reapply

The landlord is granted 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: May 17, 2021

Residential Tenancy Branch