



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to be allowed more time to dispute a One Month Notice to End Tenancy for Cause (the “Notice”) and to recover the filing fee.

Only the landlord and the landlord’s agent appeared. The tenant did not appear although the telephone line remained open for 15 minutes.

I note the Residential Tenancy Branch (the “Branch”) digital file records show the tenant was sent a reminder notification of the hearing on September 27, 2021. The records further show that on September 28, 2021 the tenant contact the Branch requesting the particulars to call into the hearing. The tenant was directed by the information officer to the email sent to them on June 16, 2021 containing the hearing package, which contains the information the tenant was seeking. The tenant was further advised if they could not locate the original hearing package to call back to the Branch and they would resend that information to them. The tenant has had no further communication with the Branch as of this date.

Preliminary and Procedural Matters

The first issue I must determine is if the tenant should be allowed more time to dispute the Notice, which may only be granted if the tenant can prove they had an exception circumstance that prohibited them from making their application within the statutory time limit, such as being hospitalized.

I find in the absent of any testimony from the tenant, that the tenant has failed to meet the burden of proof. Therefore, I do not grant the tenant more time to dispute the Notice and I dismiss the tenant’s application without leave to reapply.

Issue to be Decided

Is the landlord entitled to an order of possession pursuant to section 55 of the Act?

Background and Evidence

The tenant submits in their application that they received the Notice on May 22, 2021, by personal service. The tenant provided a copy of the Notice in support of their application. The effective vacancy date written in the Notice was June 30, 2021.

The landlord stated that they served the tenant with the Notice on May 22, 2021. The landlord stated that they accidentally wrote the day it was issued as June 22, 2021; however, it was actually May 22, 2021.

The landlord stated that the tenant has failed to pay any rent since they issued the Notice.

Analysis

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

Since I have dismissed the tenant's application for dispute resolution, I must consider if the landlord has met their statutory obligations under the Act to end the tenancy, and if so, I must grant the landlord an order of possession pursuant to section 55 of the Act.

I am satisfied that the tenant did receive the Notice by personal service on May 22, 2021, as this was admitted in the tenant's application. The tenant did not dispute the Notice within the statutory time limit. I have dismissed the tenant's application to be allowed more time to dispute the Notice, as the tenant has not met the requirements of section 66 of the Act.

I have reviewed the Notice; I find the Notice complies with section 52 of the Act. Although the Notice shows that it was issued on June 22, 2021; however, that was an obvious error by the landlord, which I find the tenant had to have known it was issued on May 22, 2021, as that was the date they said they received it in their application. Therefore, I find it reasonable to amend the Notice pursuant to section 68 of the Act, to show that it was issued on May 22, 2021.

I find the tenancy legally ended on June 30, 2021, the date listed in the Notice and the tenant is overholding the rental unit and has further violated the Act by failing to pay rent for four (4) months.

I find the landlord has met their statutory obligations under the Act. I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, 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 failed to dispute the Notice within the statutory time limit. The tenant's application to be allowed more time to dispute the Notice is dismissed. 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: September 30, 2021

Residential Tenancy Branch