



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-MT, FFT, OLC, RP, LRE, PSF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant May 30, 2022 (the “Application”). The Tenant applied as follows:

- To dispute a Two Month Notice to End Tenancy for Landlord's Use of Property and for more time to dispute this notice
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement
- For a repair order
- For an order to suspend or set conditions on the Landlord's right to enter the rental unit
- For an order that the Landlord provide services or facilities required by the tenancy agreement or law
- To recover the filing fee

J.C.C., the Tenant’s mother, appeared at the hearing for the Tenant. J.C.C. advised that the Tenant has moved out of the rental unit and no longer requires the hearing. J.C.C. sought to withdraw the Application.

Rule 5.0.1 of the Rules of Procedure (the “Rules”) states:

Withdrawing an application to dispute a notice to end tenancy

Where a tenant has applied to dispute a landlord’s notice to end tenancy, the applicant tenant requires the written consent of the landlord to withdraw their application.

Given rule 5.0.1 of the Rules, I asked J.C.C. about service of the hearing package on the Landlord. J.C.C. provided affirmed testimony. J.C.C. testified that the Tenant served the hearing package on the Landlord in person within three days of June 14, 2022.

Based on the undisputed testimony of J.C.C., I accept that the Landlord was served with the hearing package in accordance with section 89(1)(a) of the *Residential Tenancy Act* (the “Act”) within three days of June 14, 2022. I also find the Tenant complied with rule 3.1 of the Rules in relation to the timing of service.

I also note that the Landlord submitted evidence for the hearing and therefore must have received the hearing package.

Given I was satisfied of service of the hearing package, I allowed J.C.C. to withdraw the Application on behalf of the Tenant. The reason behind rule 5.0.1 of the Rules is that landlords can attend these hearings and seek an Order of Possession based on a notice to end tenancy without having filed their own Application for Dispute Resolution. Here, the Landlord was aware of the hearing and did not appear at the hearing and therefore must not have sought an Order of Possession at this hearing. Further, I accept J.C.C.’s testimony that the Tenant has moved out of the rental unit and therefore the Landlord does not require an Order of Possession.

The Application is withdrawn at the request of J.C.C. on behalf of the Tenant.

Conclusion

The Application is withdrawn at the request of J.C.C. on behalf of the Tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 14, 2022

Residential Tenancy Branch