



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied for an order of possession under the Act. The filing fee was waived.

The tenant and landlord agent, JG (agent) attended the hearing and were affirmed. The parties confirmed their respective email addresses.

Preliminary and Procedural Matters

The agent provided a file number of a Previous Decision (Previous Decision). The Previous Decision file number has been included on the cover page of this decision for ease of reference. The Previous Decision began as a Direct Request Proceeding dated October 28, 2022, where the tenancy ended on October 31, 2022 by way of an order of possession and a monetary order.

The tenant then applied for a Review Consideration and was successful, resulting in a Review Hearing that was held on January 6, 2023 and resulted in an order of possession for the same date, October 31, 2022 and a monetary order in the Review Hearing Decision dated January 18, 2023 (Review Hearing Decision). The tenant has now asked for an order of possession for the rental unit, however, the tenancy already ended as of October 31, 2022 based on the Review Hearing Decision.

The parties confirmed their respective email addresses during the hearing.

Analysis

The parties were advised that this hearing would not proceed as the tenant has no legal authority to support that they have a right to occupy the rental unit as the tenancy has ended lawfully under the Act, by way of an order of possession being granted to the landlord effective October 31, 2022. The tenant did not file this application before me until February 7, 2023.

I have no authority under the Act to change the Review Hearing Decision. Therefore, I find the tenant's only legal remedy is to apply for a Judicial Review of the Review Hearing Decision.

This application is dismissed without leave to reapply as the tenancy has already ended on October 31, 2022 and the tenant has no legal right to occupy the rental unit as a result.

Conclusion

The tenant's application is dismissed without leave to reapply as the tenancy legally ended on October 31, 2022 based on the Review Hearing Decision.

This decision will be emailed to both parties.

The tenant is at liberty to apply for Judicial Review if they so choose.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 28, 2023

Residential Tenancy Branch