



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNC-MT, OLC, FFT**
 OPC, FFL

Introduction

This hearing dealt with applications filed by both the landlord and the tenant pursuant to the *Residential Tenancy Act* (the "Act").

The tenant filed two identical applications, seeking:

- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55;
- Leave to have the application heard after the time to dispute the notice to end tenancy has passed pursuant to section 66;
- An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The landlord filed an application seeking:

- An order of possession for cause pursuant to sections 47 and 55; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The landlord PV and the tenant both attended the hearing. As both parties were present, service was confirmed. The parties each confirmed receipt of the applications and evidence. Based on the testimonies I find that each party was served with these materials as required under RTA sections 88 and 89.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure ("Rules") and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

Each party was administered an affirmation to tell the truth and they both confirmed that they were not recording the hearing.

Preliminary Issue

In her applications, the tenant sought more time to dispute the landlord's notice to end tenancy pursuant to section 66. The tenant acknowledges being personally served with the landlord's notice to end tenancy on April 14, 2023 and the Residential Tenancy Branch records indicate she filed her applications on April 26th and April 27th, respectively. The tenant testified she is not computer savvy and that she got confused when filing her application.

I determined that there was no exceptional circumstance that would allow me to extend the 10 day time limit for the tenant to make her application to dispute the landlord's notice. I find the tenant failed to bring on her application as soon as practicable and failed to take reasonable and appropriate steps to comply with the relevant time. The tenant's request to extend the time to dispute the notice to end tenancy was denied.

Settlement Reached

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved the following resolution of their dispute with the following terms:

- The parties mutually agree to end this tenancy. This tenancy will end at 1:00 p.m. on October 1, 2023 by which time the tenant and any other occupant will have vacated the rental unit.
- The rights and obligations of the parties continue until this tenancy ends.
- The parties will attend the rental unit at 1:00 p.m. on September 30 or any other mutually agreeable time for a move-out condition inspection report.

Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute. As the parties resolved matters by agreement, I make no findings of fact or law with respect to the application before me and I make no determinations on whether the notice to end tenancy was valid.

The decision to order payment of the filing fee is discretionary upon the arbitrator and since this matter was settled by agreement, I decline to order that the filing fees of either party be recovered.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue an Order of Possession to the landlord. The landlord is required to serve this Order of Possession upon the tenant and may enforce it as early as 1:00 p.m. on October 1, 2023, should the landlord be required to do so.

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: August 15, 2023

Residential Tenancy Branch