



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MT, CNR, FF

Introduction

This was an application by the tenants to cancel a Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The named tenant and the landlord participated in the hearing.

Issue(s) to be Decided

Should the 10 day Notice to End Tenancy for unpaid rent be cancelled?
Is the landlord entitled to an order for possession pursuant to her oral request?

Background and Evidence

The tenancy began in September, 2009. Monthly rent is \$1,500.00. The tenant paid a security deposit at the commencement of the tenancy.

The tenant did not pay the rent for February when it was due. The landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent. Since receiving the Notice the tenant has paid \$500.00 on account of February's rent, but \$1,000.00 is still outstanding and unpaid. The tenant said at the hearing that he has the funds to pay the balance of rent for February. The landlord testified that she is not prepared to allow the tenancy to continue. She requested an order for possession. She will allow the tenant to remain in the rental unit until February 28, 2011 provided he immediately pays the outstanding rent for February.

Analysis and Conclusion

The tenant acknowledged that rent for February has not been paid and \$1,000.00 is still outstanding; he said that his application was intended as a plea for more time to pay the rent. The landlord testified that the tenant has repeatedly been late paying rent and she is not willing to allow the tenancy to continue.

The tenant has not provided any ground that would justify cancellation of the Notice to End Tenancy. The tenant's application to cancel the Notice is Dismissed without leave to reapply and I find that the tenancy has ended pursuant to the Notice to End Tenancy.

Section 55 of the *Residential Tenancy Act* provides as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenant's application to dispute the landlord's Notice to End Tenancy. The landlord made an oral request for an order of possession at the hearing. Pursuant to section 55 I grant the landlord an order for possession effective February 28, 2011 after service upon the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

Dated: February 25, 2011.
