



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a ten day notice to end tenancy for unpaid rent issued on June 5, 2012.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Issue(s) to be Decided

Should the ten day notice to end tenancy issued on June 5, 2012, be cancelled?

Background and Evidence

The tenant acknowledged he received the ten day notice to end tenancy for unpaid rent on June 6, 2012. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant's application was filed on June 29, 2012, requesting to cancel a notice to end tenancy for unpaid rent. The tenant did not pay the full amount of rent within five days of receiving the notice.

The landlord requests an order of possession.

Analysis

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

The tenant did not pay rent in full within the five days of receiving the notice as required by the Act. The tenant's application was filed beyond the effective date of the notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Therefore, the tenant's application to cancel the notice is dismissed.

As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

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.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession 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.

Conclusion

The tenant's application 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: July 20, 2012.

Residential Tenancy Branch