



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

The tenant has applied for dispute resolution, seeking an order cancelling a 10 day Notice to End Tenancy (for unpaid rent or utilities). At the hearing, the landlord applied for an Order of Possession, effective May 15, 2013.

Issues to Be Decided

- Is the Notice to End Tenancy (the “Notice”) served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession, or should the Notice be cancelled, and the tenancy continue?

Background and Evidence

This tenancy began on October 26, 2009. Rent is due on the 1st day of each month in the amount of \$375.00. The tenant has not paid rent for over 8 months, and is currently in arrears \$3,442.08. The tenant received a 10-Day Notice to End Tenancy some time prior to April 15, 2013, and filed a dispute of that notice. The tenant acknowledges the rent is owing, but had fallen upon hard times and is not able to pay any rent at present.

Analysis

Section 26(1) of the Residential Tenancy Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Residential Tenancy Act or the tenancy agreement. The landlord was therefore entitled in law to serve the notice ending this tenancy, when the tenant’s rent was not paid as and when due. Upon receipt of that notice, the tenant should have paid the full rental arrears within the required 5 day period, in order to have the tenancy continue. The tenant failed to do so, and disputed the notice merely in hopes of delaying the effect of the ending of the tenancy. The notice is found effective to end this tenancy, and the landlord has established a right to possession. The tenant’s claim is dismissed.

Conclusion

Pursuant to Section 55(1) of the Residential Tenancy Act, I issue an Order of Possession, effective May 15, 2013. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

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: May 09, 2013

Residential Tenancy Branch