



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This telephone conference call hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice").

At the beginning of the hearing, the tenant's adult son and the landlord were present. The tenant's son stated that his father was in the hospital at that time and would be unable to attend the hearing. The tenant's son requested an adjournment of the hearing.

When questioned, the tenant's son said that his father was admitted two days prior to the hearing and was having tests run, without being specific as to whether the tenant had access to a telephone.

Neither the tenant nor his son presented any proof of hospital records or proof of admission.

Issue(s)

Is the tenant entitled to an adjournment of this hearing?

Analysis and Conclusion

In considering the tenant's request for an adjournment, I am guided by Residential Tenancy Branch Rules of Procedure 6.3 which provides that a dispute resolution hearing may be adjourned after the commencement of the hearing.

In assessing whether an adjournment request should be granted the following criteria can be considered pursuant to rule 6.4:

- whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1 [objective and purpose];
- whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- the possible prejudice to each party.

I have denied the tenant's request for an adjournment of this hearing. The tenant failed to submit a copy of the 1 Month Notice for which he was seeking cancellation, which led me to ask questions of the landlord about details of this Notice as the landlord also failed to submit a copy.

The landlord said that he served the tenant the 1 Month Notice personally on May 27, 2013.

The Notice explained that the tenant had ten days to dispute the Notice. It also explains that if the tenant did not file an application to dispute the Notice within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice.

In the case before me, the tenant was required to file his application for dispute resolution to dispute the Notice no later than June 6, 2013. As the tenant filed his application on June 13, 2013, he was therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Due to this, I find an adjournment of this hearing is not necessary and I therefore have dismissed the tenant's application, without leave to reapply.

The Notice remains valid and enforceable and the tenant must vacate the rental unit on or before the effective date of the Notice, which date was not made known at this hearing.

The landlord did not request an order of possession for the rental unit during the hearing and I have therefore not granted the landlord such order.

The landlord is at liberty to file his own application for dispute resolution seeking an order of possession for the rental unit should the tenant fail to vacate the rental unit.

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* and is being mailed to both the applicant and the respondent.

Dated: July 12, 2013

Residential Tenancy Branch

