



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding LOOKOUT EMERGENCY AID SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNC O

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on October 26, 2015. The Tenant filed seeking an order to allow him more time to make his application to dispute the 1 Month Notice; to cancel a 1 Month Notice to end tenancy for cause; and for other reasons.

The hearing was conducted via teleconference and was attended by the Landlord and two Agents of the Landlord. No one attended the teleconference on behalf of the Tenant despite this hearing being convened to hear matters pertaining to the Tenant's application for Dispute Resolution.

Issue(s) to be Decided

1. Should the Tenant's application be dismissed with or without leave to reapply?
2. Did the Landlord appear at the hearing and make an oral request for an Order of Possession?

Background and Evidence

The Landlord testified that he personally served the Tenant the 1 Month Notice to end tenancy on August 26, 2015. He stated that since serving the Notice they have had a change in management and he was awaiting final approval to proceed with the eviction.

The Landlord submitted that since the 1 Month Notice was served upon the Tenant they have been issuing the Tenant receipts which state the Tenant's payments were received for "use and occupancy only".

In closing, the Landlord stated that they appeared at the hearing as they were hoping to get the Tenant evicted as he has constant traffic coming and going as he is a known drug dealer. The Landlord then requested that an Order of Possession be issued to them.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite this hearing being scheduled to hear the Tenant's application, I accept the undisputed evidence submitted by the Landlord.

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the hearing The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the applicant Tenant, the telephone line remained open while the phone system was monitored for eleven minutes and no one on behalf of the applicant Tenant called into the hearing during this time.

Section 66(3) of the *Act* stipulates that the director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

In this case the 1 Month Notice was issued August 26, 2015 with an effective date of September 30, 2015. The Tenant did not file his application requesting more time to dispute that Notice until October 26, 2015 which is past the effective date. Therefore, even if the Tenant appeared at the hearing his request to extend the time limit to make an application to cancel the 1 Month Notice would have been denied, pursuant to section 66(3) of the *Act*.

Based on the above, in the absence of any submissions from the applicant Tenant, I order the application dismissed without liberty to reapply.

Section 55 of the *Act* provides that an Order of Possession **must** be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing.

The Landlord appeared at the scheduled hearing and made an oral request for an Order of Possession. Accordingly, I grant the Landlord's request and issue them an Order of Possession effective 2 days upon service.

Conclusion

The Tenant did not appear at the scheduled hearing and his application was dismissed without leave to reapply. The Landlord appeared and his request for an Order of Possession was granted.

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: December 22, 2015

Residential Tenancy Branch

