



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNR LRE

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenants on July 25, 2016. The Tenants filed seeking more time to file their application; to cancel a 10 Day Notice issued for unpaid rent; and to set or suspend conditions on the Landlord's right to end the rental unit.

The hearing was conducted via teleconference and was attended by the Landlord and his legal counsel (Counsel). No one was in attendance on behalf of the Tenants despite this hearing being convened to hear the matters pertaining to the Tenants' application for Dispute Resolution.

Issue(s) to be Decided

- 1) Should this application be dismissed?
- 2) If dismissed should the Landlord be awarded an Order of Possession?

Background and Evidence

The Landlord submitted evidence that the Tenants entered into a month to month tenancy agreement which began on September 1, 2015. Rent of \$850.00 was payable on the first of each month. No security or pet deposits were paid.

On July 13, 2016 the Landlord personally served the male Tenant, K.G., with a 10 Day Notice for unpaid rent. A copy of that 10 Day Notice was submitted into evidence and indicated the Tenants failed to pay rent of \$3,025.00 that was due on July 1, 2016. The Notice listed an effective date of July 24, 2016.

There was no additional evidence or testimony provided in support of the Tenants' application for Dispute Resolution as no one attended the hearing on behalf of the Tenants.

Analysis

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. In this case, the hearing was scheduled for an oral teleconference hearing.

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

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 any submissions from the applicant Tenants I find the Tenant failed to prove the merits of their application. Accordingly, I order the application dismissed without liberty to reapply.

Section 55(1) of the *Act* stipulates that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Upon review of the 10 Day Notice submitted into evidence, I accept the undisputed evidence of the Landlord that the Tenants were served a 10 Day Notice that complied with section 52 of the *Act*. Having dismissed the Tenants' application to dispute the notice above, I hereby grant the Landlord an Order of Possession effective **Two (2) Days after service upon the Tenant**, pursuant to section 55(1) of the *Act*. In the event that the Tenants do not comply with this Order it may be filed with the Supreme Court and enforced as an Order of that Court.

Conclusion

The Tenants' application for Dispute Resolution was dismissed and the Landlord was awarded an Order of Possession.

This decision is final, legally binding, and 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: September 12, 2016

Residential Tenancy Branch