



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes MT, CNC, MNDC, OLC, LRE, FF

Introduction

This matter dealt with an application by the tenant for more time to file an application to dispute a notice to end tenancy as issued by the landlord for cause. The tenant also seeks a monetary order for compensation for work done on the rental unit property.

At the hearing, both parties were present and the landlord was assisted by legal counsel.

At the commencement of the hearing, the landlord advised that the tenant had agreed in writing that he would vacate the property on October 28, 2008. The landlord provided a copy of the written agreement signed by the tenant on September 6, 2008.

The tenant at the start of the hearing advised that they would not honour that written agreement and that they wished to proceed with the hearing.

Issues(s) to be Decided

Is the tenant entitled to more time to file an application to dispute the landlord's notice issued for cause?

Is the landlord's notice a valid notice in form and style and is there sufficient evidence to grant the landlord an order of possession based upon that notice?

Is the tenant's written agreement to vacate, dated, September 6, 2008, subject to an order of possession for the landlord?

Background and Evidence

In reviewing the documentation on file, I note that the notice issued by the landlord is an older version of the required form. I note that from the actions of the tenant that he was aware of the content's of the notice, that there is no material omission of facts and that the content of the form allowed the tenant to act upon it and to file to contest it. I find that although the notice does not comply with s. 52 of the Residential Tenancy Act I will accept that it has given the tenant sufficient details of the cause to allow him to dispute



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it and I accordingly amend it pursuant to s. 68 of the Residential Tenancy Act.

I also note that the tenant's application was filed on September 4, 2008, 12 days after it had been received. In accepting the outdated form utilized by the landlord I note that the timelines displayed are still in effect on the current version of the form and as such the tenant had 10 days to file to dispute, which he did not do. I find that the tenant is not within the time limits as required to dispute the notice for cause.

The tenant has also filed for monetary compensation from the landlord. The tenant's evidence is that he had completed work on the property in relation to foundations and other work. The tenant was unable to show that such work was part of the tenancy agreement and as such how he should be compensated under the provisions of the Residential Tenancy Act.

Analysis

I find that as the tenant had not filed to dispute the notice within the prescribed time limits, and that he is deemed to have accepted that the tenancy will end on the effective date of the notice and that he must vacate on that date, pursuant to s. 47(5) of the Residential Tenancy Act. The effective date of the notice would automatically correct to be September 30, 2008. The landlord is entitled to an order of possession effective the end of the tenancy.

I find that the tenant has not established that he is entitled to a monetary order as per the details of his application, and I dismiss that part of his application.

The effective date of the notice for cause is September 30, 2008, but the landlord had accepted a written notice from the tenant to vacate as of October 28, 2008. The tenant at the start of the hearing stated he would not honour that agreement and then at the closing of this hearing agreed to vacate as of that date.

Conclusion

I order that the tenant must vacate the premises no later than 1:00 pm on October 28, 2008. This order must be served upon the tenant and this order may be filed with and enforced as an order of the Supreme Court of British Columbia.

I dismiss all parts of the tenant's application.



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Dated: September 30, 2008

Dispute Resolution Officer