



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: MT, CNC, LAT

Introduction

This matter dealt with an application by the tenant for more time to file an application to cancel a notice to end tenancy for cause as issued by the landlord.

Both the landlord and the tenant were represented at the hearing which was held via teleconference. I advised both parties that I would consider their oral testimony as well as any documentary evidence they had submitted in reaching my decision.

The landlord states that he left the notice to end tenancy dated August 25, 2008 with the Nelson City Police to serve upon the tenant, who was in custody at that time. The tenant advises that he did not receive the notice until two days later on August 27, 2008. The tenant had a period of 10 days after receipt of the notice to file an application for dispute resolution, namely September 6, 2008. The tenant's application was not filed until September 8, 2008. I find that the tenant's application was not filed as required and that the tenant has not advanced any evidence at the hearing as to why he should be afforded more time.

The landlord at the hearing is entitled to and has requested an immediate order of possession.

Conclusion

I find that as the tenant's application was not filed within the prescribed time limits, that I must dismiss his application to dispute the notice to end tenancy.

The landlord is therefore entitled to and I grant the landlord an immediate order of possession. The order must be served upon the tenant. The order may be filed with and enforced as an order of the Supreme Court of British Columbia.

Dated : October 3, 2008