



Dispute Resolution Services

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

Decision

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an early end to tenancy and for an Order of Possession. It was apparent in the Application for Dispute Resolution that the Landlord was also seeking an Order of Possession for Cause, and the Application was amended accordingly.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions and, and to make submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause, pursuant to sections 47, 50 or 55 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in April of 2007; that the Tenant is required to pay monthly rent of \$550.00; and that rent is due on the first day of each month.

The Landlord and the Tenant agree that a One Month Notice to End Tenancy for Cause, which had an effective date of January 15, 2009, was personally served on the Tenant on December 15, 2008. The Notice informed the Tenant that if they did not file an Application for Dispute Resolution to dispute the Notice within ten days of receiving it, they are presumed to have accepted the Notice and they must vacate the rental unit by the date set out on the Notice.

The Tenant stated that he did not file an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy.

Analysis

The evidence shows that the Tenant was served with a Notice to End Tenancy, pursuant to section 47 of the Act, on December 15, 2008.

Section 47(2) of the *Act* stipulates that a One Month Notice to End Tenancy for Cause must end the tenancy effective on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement. As the Tenant is deemed to have received this Notice on December 15, 2008, and rent is due on the first of each month, the earliest effective date that the Notice is January 31, 2009.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was January 31, 2009.

Section 47 of the *Act* stipulates that a Tenant has ten days from the date of receiving a Notice to End Tenancy to file an Application for Dispute Resolution to dispute the Notice. The evidence shows that the Tenant did not file an Application for Dispute Resolution, therefore I find that the Tenant accepted that the tenancy is ending **on** January 31, 2009, pursuant to section 47(5) of the *Act*.

On this basis I find that the Landlord is entitled to an Order of Possession that is effective on January 31, 2009.

As the Landlord has been granted an Order of Possession on the basis of section 47 of the Act, I find there is no need to consider the Landlord's application for an early end to tenancy, as I would not end the tenancy on the basis of that application on a date that is earlier than January 31, 2009.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective on January 31, 2009. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

Date of Decision: January 29, 2009.