



Dispute Resolution Services

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

Decision

Dispute Codes: MT, CNC, OPC

Introduction

This hearing dealt with the tenant's application for more time to make application to cancel a notice to end tenancy, and cancellation of a notice to end tenancy for cause. Both parties in addition to three witnesses for the landlord participated in the hearing and gave affirmed testimony. During the hearing the landlord requested an order of possession in the event that the tenant's application was denied.

Issues to be Decided

- Whether the tenant is entitled to more time to make application to cancel a notice to end tenancy and, if so, to cancellation of a notice to end tenancy for cause
- Whether the landlord is entitled to an order of possession

Background and Evidence

The tenancy began on July 12, 2008 with rent in the amount of \$440.00 payable each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$220.00. As a result of various concerns about the conduct of the tenant and her guests on the part of the landlord's agent (building manager) and several tenants, the landlord's agent served the tenant with a 1 month notice to end tenancy for cause. The landlord's agent submitted into evidence a copy of the 1 month notice dated November 10, 2008 which was served by posting on the tenant's door. The tenant acknowledged receipt of the notice on November 10, 2008. However, it was not until December 8, 2008 or, outside of the 10 days available to the tenant to dispute

the notice, when the tenant filed an application to dispute it. In support of her application for more time to apply to cancel the notice, the tenant stated that she could not remember what her reasons for a late application were.

Further to written submissions in support of the landlord's request for an order of possession, witnesses for the landlord testified as to the disruptive behaviour of the tenant and her guests. In response, the tenant stated broadly that some allegations were true, although exaggerated, while other allegations were false.

Analysis

Based on the documentary evidence and the testimony of the parties, I find that the tenant was served with a 1 month notice to end tenancy for cause. The tenant did not dispute the notice within 10 days of receiving it. Rather, the tenant applied to dispute the notice by way of late application for dispute resolution dated December 8, 2008. The tenant failed to provide evidence of exceptional circumstances leading to her late application. Accordingly, I therefore dismiss the tenant's application for an extension of time to apply and based upon the above facts I find that the landlord is entitled to an order of possession.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service of the order upon the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

DATE: January 6, 2009

Dispute Resolution Officer