



Dispute Resolution Services

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

Decision

Dispute Codes: CNC, OPC

Introduction

This hearing dealt with an application from the tenant for cancellation of a 1 month notice to end tenancy for cause. The tenant and the landlord's agent both participated in the hearing and gave affirmed testimony. During the hearing the landlord's agent requested an order of possession in the event the tenant's application failed.

Issues to be Decided

- Whether the tenant is entitled to cancellation of the notice to end tenancy
- Whether the landlord is entitled to an order of possession

Background and Evidence

The landlord served the tenant with a 1 month notice to end tenancy for cause dated January 20, 2009. The reason identified on the notice for its issuance is as follows:

Rental unit / site must be vacated to comply with a government order

The tenant acknowledged having received the notice, a copy of which was submitted into evidence. The date shown on the notice by when the tenant must vacate the unit is February 28, 2009.

Subsequent to his receipt of the notice, as above, the tenant also acknowledged having obtained a copy of the ORDER issued to the landlord by Emergency Management BC, Ministry of Public Safety and Solicitor General. The ORDER was written on March 6,

2009, and received by the landlord on March 9, 2009. A copy of the ORDER was submitted into evidence. In part, the ORDER reads:

YOU ARE HEREBY ORDERED TO:

Discontinue use and occupancy of the premise; or repair the premises to meet the requirements of the B.C. Fire Code and B.C. Building Code.

Obtain a building permit from the local authority and up grade the premises as required by the local Building Inspector.

The work involved in this Order must be completed within 30 working days after receipt of this Order.

By letter to the Residential Tenancy Branch dated February 5, 2009, the landlord's agent confirmed that the landlord is "unable / unwilling to affect the needed repairs" and accordingly that "they will not be completed." In the result, the landlord's agent requested an order of possession to be effective March 31, 2009, and offered to meet with the tenant in order to provide assistance in finding alternate living accommodation.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 1 month notice to end tenancy for cause. In response, the tenant filed to dispute the notice within ten days after receiving it.

Section 47 of the Act broadly addresses **Landlord's notice: cause**. Specifically, section 47(1)(k) states:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(k) the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;

In view of all of the above information, I find that the landlord is entitled to an order of possession and I set aside the tenant's application for cancellation of the 1 month notice to end tenancy for cause.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Tuesday, March 31, 2009**. 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: March 17, 2009

Dispute Resolution Officer