

## **DECISION**

Dispute Codes      CNC, DRI, ERP, MT

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking orders to extend the time to make an Application to dispute a Notice to End Tenancy, to dispute an additional rent increase, to cancel a one month Notice to End Tenancy issued for cause, for an order compelling the Landlord to make repairs to the rental unit and for the return of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### Issues(s) to be Decided

Should the Notice to End Tenancy be cancelled? Is the Tenant entitled to the other relief sought?

### Background and Evidence

In regard to an extension of time to file her Application, the Tenant testified that she had been dealing with medical issues and that is why she was one day late in filing her Application. I allowed the Tenant the extension and proceeded to hear the Application on its merits.

In evidence the Landlord supplied copies of a one month Notice to End Tenancy, issued for claims that the Tenant has engaged in illegal activity that has or is likely to cause damage to the rental unit, and a two month Notice to End Tenancy for the Landlord's use of the rental unit. The Landlord claims she served both Notices on the Tenant on May 28, 2009.

The Tenant denies she was served with the two month Notice to End Tenancy, and says she only received the one month Notice on May 28, 2009. I note the Tenant only applied to cancel the one month Notice.

In regard to the cause claimed by the Landlord for the one month Notice, the Landlord testified that she had a set of shelves constructed in a doorway in the rental unit. The doorway led to a storage area where the Landlord had her personal property stored. The Landlord testified that the Tenant had removed these shelves, and accessed the storage room.

The Landlord testified that the Tenant had stolen some of the personal property of the Landlord, including but not limited to, a television, battery charger, tools, a drill with bits and a heater. She was not sure of all the items missing, but says she can no longer trust the Tenant. The Landlord further testified the Tenant had put the rental unit refrigerator in the storage area and it had become mouldy inside.

The Landlord further testified that the Tenant had also removed doors to the bedroom and bathroom from inside the unit and had placed them outside where they were being damaged by the weather. The Landlord also testified the Tenant had erected a "privacy fence" in the rear area of the rental unit, by nailing it into the vinyl siding of the house and into the neighbour's fence.

The Landlord testified she had not given the Tenant permission to make any of these alterations, or to enter the storage area and use the Landlord's personal property

The Tenant testified she removed the doors from the bathroom and bedroom because the rental unit space was small and she found the doors were confining.

The Tenant further testified that the shelving unit separating the rental unit from the Landlord's storage area had simply fallen apart. She says the back board had come unglued and she removed the shelves so she could move the Landlord's refrigerator into the area. She stated she had to remove a piece of trim from the door frame to do this.

The Tenant states the items removed from the Landlord's storage area were simply borrowed and have been returned. The Tenant testified she needed to use the heater as it was cold in the unit.

The Tenant acknowledged she had no permission to remove the shelves from the storage doorway or take doors off in the rental unit, or to remove items from the Landlord's storage area. She testified no one was ever around to obtain permission from. She complained the Landlord took down her "privacy fence" without her permission.

### Analysis

Based on the affirmed testimony and evidence provided, and on a balance of probabilities, **I find that I must dismiss the Tenant's Application for Dispute Resolution**, since I find she illegally entered the Landlord's personal storage area and removed property and made alterations to the unit, without permission or authority to do so.

The Tenant could have obtained permission from the Agent for the Landlord who collected the rent or from the Landlord directly. Regardless, she failed to obtain permission to do the things she proceeded to do. Therefore, I find the one month Notice to End Tenancy for cause is valid and should be upheld.

Throughout the hearing and following dismissal of the Application, the Landlord requested that the Tenant be removed as soon as possible by order of possession. The effective date of the one month Notice to End Tenancy, July 1, 2009, has now passed and therefore, I grant the Landlord an order of possession effective **two days** after service upon the Tenant. This order may be enforced in the British Columbia Supreme Court.

As to the two month Notice to End Tenancy, I think it is reasonable to conclude she would have simply added a request to cancel this Notice in her Application if she was served with it, since she was already applying to cancel the one month Notice. Therefore, I accept the Tenant was not served with the two month Notice and I order that the two month Notice be cancelled and is of no force or effect upon the Tenant.

The Tenant led no evidence with regard to the additional rent increase, and therefore, it is dismissed due to insufficient evidence.

Since the tenancy has ended, I dismiss the other relief sought by the Tenant, as it is no longer required.

### Conclusion

The one month Notice to End Tenancy is valid and upheld, and therefore, the Tenant's Application is dismissed. The Landlord was granted an order of possession effective two days after service on the Tenant.

I accept the Tenant's evidence she was not served with the two month Notice to End Tenancy, and I cancel it as it is of no force or effect.

The other portions of the Tenant's Application are no longer required and are dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 22, 2009.

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Dispute Resolution Officer