



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MT, CNR, MNR, OPT, O

Introduction

This matter dealt with an application by the Tenant for more time to apply to cancel a Notice to End Tenancy and to cancel a Notice to End Tenancy for Unpaid Rent. The Tenant also applied to be reimbursed the cost of emergency repairs and for an Order of Possession of the rental unit. The Tenant/Applicant did not dial into the conference call.

I find that a valid 10 Day Notice to End Tenancy for Unpaid Rent dated July 21, 2009 was served on the Tenant in person on July 21, 2009. Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the amount set out on the Notice or apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit at that time. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than July 27, 2009.

I find that the Tenant did not apply to dispute the 10 Day Notice until August 13, 2009. I also find that the Tenant has not provided any evidence in support of his application to extend the time to apply to set the Notice aside or any evidence that there are no rent arrears as alleged on the Notice. Consequently, the Tenant's applications to cancel the Notice and for an Order of Possession are dismissed without leave to reapply. The Landlord requested and I find pursuant to s. 55(1) of the Act that he is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant. In the absence of any evidence from the Tenant in support of the balance of his application, those claims are also dismissed without leave to re-apply.

Conclusion

The Tenant's application is dismissed. An Order of Possession to take effect 48 hours after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia. 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: October 01, 2009.

Dispute Resolution Officer