

DECISION

Dispute Codes: CNC

Introduction

This is the Tenant's application to cancel a Notice to End Tenancy for Cause issued January 27, 2010.

I reviewed the evidence provided prior to the Hearing. The Landlord's agent gave affirmed testimony and this matter proceeded on its merits.

Preliminary Matter

This matter was scheduled to be heard on March 19, 2010, at 9:00 a.m., via teleconference. The Landlord's agent signed into the teleconference at 9:00 a.m. and was ready to proceed. At 9:10 a.m., the Tenant had not yet signed into the teleconference.

Therefore, the Tenant's application is dismissed.

The Landlord's agent requested an Order of Possession.

Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession for the rental unit?

Background and Evidence

The Landlord's agent gave the following testimony and evidence

The Landlord's agent served the Tenant with the 1 Month Notice to End Tenancy for Cause by posting the Notice on the Tenant's door on January 27, 2010.

The Tenant's rent for March, 2010, was paid on March 1, 2010. The Landlord's agent deposited the cheque on March 2, 2010, and issued the Tenant a receipt for "use and occupancy only". The Landlord's agent explained to the Tenant that she was not

reinstating the tenancy. The Tenant understood, and ripped up the receipt before leaving the Landlord's office.

Analysis

Based on the undisputed testimony of the Landlord's agent, I am satisfied that the Tenant was served with the Notice to End Tenancy, by posting the Notice on the Tenant's door on January 27, 2010. Service in this manner is deemed to be effected 3 days after posting the document. Therefore, I find that the Tenant was served with the Notice to End Tenancy on January 30, 2010, and the effective date of the end of tenancy is February 28, 2010.

I accept the Landlord's agent's undisputed testimony that she did not create a new tenancy when she cashed the cheque on March 2, 2010, and that she accepted the money for use and occupancy only.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the Tenant's application to cancel the Notice to end Tenancy, and the Landlord's agent made an oral request for an Order of Possession. The Landlords are therefore entitled to an Order of Possession, and I make that Order **effective two days after service of the Order on the Tenant.**

Conclusion

I hereby grant the Landlords an Order of Possession **effective two days from service on the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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.

March 19, 2010

Date of Decision
