

DECISION

Dispute Codes CNR, MT, RR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant, requesting more time to make the Application, to cancel a 10 day Notice to End Tenancy for unpaid rent, to allow the Tenant to reduce rent and to recover the filing fee for the Application.

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.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note the Landlord had witnesses at the start of the hearing, however, it was unnecessary to hear from the witnesses. I also note the Landlord had provided evidence late and this was not considered in the hearing.

Issues(s) to be Decided

Were there exceptional circumstances for the Tenant to file her Application beyond the time limit established in the Act?

Is the Tenant entitled to the other relief sought?

Background and Evidence

The Tenant was personally served with a 10 day Notice to End Tenancy for unpaid rent on March 19, 2010. The Tenant testified she also received a one month Notice to End Tenancy for cause and a Notice of Rent Increase on the same day.

The 10 day Notice to End Tenancy states the Tenant must file her Application to dispute the Notice within five days of receiving the Notice.

The Tenant filed her Application on March 26, 2010, two days late. The Tenant testified that she filed her Application late because she had read the paper work wrong.

I note the Tenant's Application disputes only the 10 day Notice to End Tenancy for unpaid rent and does not dispute the one month Notice to End Tenancy for cause.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant had insufficient evidence to prove there were exceptional circumstances which would allow me to extend the time limit to file her Application.

Section 59 of the Act and the policy guideline set out that the Dispute Resolution Officer may extend or modify a time limit ***only in exceptional circumstances***. The guideline explains the word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow a Dispute Resolution Officer to extend that time limit. The word "exceptional" implies that the reason for failing to do something by the required time must be very strong and compelling.

Furthermore, a "reason" without any force of persuasion is merely an excuse. Therefore, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

Here the Tenant testified she read the papers incorrectly. Therefore, I find that the Tenant's reasons for late filing do not meet the exceptional circumstances required in section 59 of the Act for me to extend a time limit, and I dismiss her Application. As the Application is dismissed, it is unnecessary to deal with the other issues.

In any event, the Tenant did not dispute the one month Notice to End Tenancy and is therefore deemed to have accepted that the tenancy ended on the corrected, effective date of that Notice, April 30, 2010, under section 40 of the Act.

Following my dismissal of the Tenant's Application, the Landlord orally requested an order of possession. Under section 48 of the Act, I must grant that request.

The Landlord requested the order be effective for the last day of June, and therefore, I grant the Landlord an order of possession **effective at 1:00 p.m. June 30, 2010**. This order may be enforced in the British Columbia Supreme 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*.

Dated: May 13, 2010.

Dispute Resolution Officer