

DECISION

Dispute Codes

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| For the tenant | CNC FF |
| For the Landlord | OPB, OPC, FF |

Introduction

This hearing dealt with an application by the tenant and by the landlord. The tenant seeks an order setting aside a notice to end this tenancy for cause.

The landlord seeks an Order of Possession principally on the basis the fixed term tenancy agreement came to an end on June 30, 2010.

Both parties applied for recovery of their filing fee. Both parties attended the conference call hearing and provided sworn testimony and were permitted to ask questions and make submissions.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Are the parties entitled to the monetary amount claimed?

Background and Evidence

The parties' undisputed testimony is as follows. The tenancy began January 1, 2010. The tenant moved in on December 28, 2009 the rent is \$550 per month. The tenant paid a security deposit at the outset of the tenancy of \$275. The tenant was given a Notice to End Tenancy for Cause on May 29, 2010.

The tenant testified that he is an "injured worker", and has some "problems". After several questions the tenant agreed that he moved into the rental unit just before January 01, 2010. The landlord concurred that he allowed the tenant to move in earlier than the date on the tenancy agreement. The landlord testified to, and provided, the tenancy agreement showing a fixed term of "six months" ending June 30, 2010,

indicating the tenant must move out at the end of the term. The tenant disputes that he signed a tenancy agreement on December 23, 2009 as indicated on the agreement submitted by the landlord. To his recollection he did not sign such an agreement as submitted. The tenant testified that he was awaiting the outcome of today's hearing in respect to seeking other accommodations.

Analysis

Despite the tenant's testimony that he did not enter into a tenancy agreement with the landlord, I find, that on comparing the signatures on the submitted tenancy agreement and the tenant's application for dispute resolution, that the tenant did indeed enter into a tenancy agreement for a fixed term of six months ending on June 30, 2010 with the condition that the tenant must move out of the residential unit at the end of the fixed term. The landlord has applied to end the tenancy based on the provisions afforded by Section 55(2)(c) of the Residential Tenancy Act (the Act). Section 55, in part, states as follows **(emphasis for ease)**:

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.

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

- (a) a notice to end the tenancy has been given by the tenant;
- (b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;
- (c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;**
- (d) the landlord and tenant have agreed in writing that the tenancy is ended.

On preponderance of the evidence and on the balance of probabilities, and as a result of the above, **I find** the landlord is entitled to an Order of Possession. The landlord has requested such an Order be effective July 31, 2010. I deem it to be reasonable and I will so Order.

As a result of my findings in respect to the landlord's application, it is not necessary for me to consider the merits of the tenant's application to set aside the Notice to End, as the landlord's application renders the Notice to End moot.

The landlord is entitled to recover their filing fee of \$50.

Conclusion

The tenant's claim is **dismissed** without leave to reapply.

The landlord is granted an **Order of Possession**, and the **filing fee**.

I grant an Order of Possession to the landlord **effective July 31, 2010**. The tenant must be served with this Order of Possession. 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.

I order that the landlord may retain **\$50** from the tenant's security deposit.

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*.