

DECISION

Dispute codes

CNC

Introduction

This hearing was convened in response to an application filed on July 16, 2010 by the tenant to cancel a 1 Month Notice to End Tenancy for Cause (the Notice to End) dated July 10, 2010, with the reasons as:

Tenant or a person permitted on the property by the tenant has:

- *Significantly interfered with or unreasonably disturbed another occupant or the landlord.*
- *Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.*

Both the tenant and the landlord appeared in the conference call and each participated in the hearing via submissions and testimony.

At the outset of the hearing the landlord verbally requested an Order of Possession should I uphold the Notice to End.

In this type of application, the onus is on the landlord to prove the Notice to End was issued for valid and sufficient reasons, and that at least one reason must constitute sufficient cause for the Notice to be valid. The landlord is not required to prove all reasons stipulated for ending the tenancy.

Issue(s) to be decided

Is there *sufficient* cause to end the tenancy? And if so, is the landlord entitled to an Order of Possession?

Background and evidence

The relevant evidence in this matter is as follows. At the outset of this hearing the tenant testified that they have secured other accommodations and are vacating as soon as Friday, September 10, 2010, but will confidently be out of the rental unit by September 12, 2010. The tenant is agreeable to the landlord securing an Order of Possession effective September 13, 2010, so as to give the tenant time to clean the rental unit. As a result, the tenant determined not to dispute the landlord's Notice to End. The landlord testified they are agreeable to an Order of Possession effective September 13, 2010.

Analysis

The testimony of the tenant, clearly, is that they are vacating the rental unit and are withdrawing their application to set aside the landlord's Notice to End. As a result, I uphold the landlord's Notice to End and the tenant's application to cancel the landlord's Notice to End is **dismissed** without leave to reapply. The landlord is hereby entitled to an **Order of Possession** as requested, effective according to the Order.

Section 55 of the Act, in part, states as follows:

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.
- (3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

Conclusion

The tenant's application is **dismissed**.

I Order the tenancy will end. I grant an **Order of Possession** to the landlord effective **Monday, September 13, 2010**. This Order must be served on the tenant. Should the tenant then 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.

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*.