

Decision

Dispute Codes: CNC, OPT, FF

Introduction

This hearing dealt with an application by the tenant for an order to cancel a notice to end tenancy, an order of possession in favour of the tenant, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to any or all of the above under the Act

Background and Evidence

Included in evidence is a copy of the written tenancy agreement for the fixed term of tenancy from February 15, 2010 to December 15, 2010. This agreement reflects the agreement between the parties by way of their initials, that at the end of the fixed term, “the tenancy ends and the tenant must move out of the residential unit.” The tenancy agreement also contains a manual notation to the effect that at the end of the fixed term there will be an “option to purchase until 15/12/2010 for \$245,000.00.”

Rent in the amount of \$1,700.00 is payable on the fifteenth day of each month. A security deposit of \$1,400.00 was collected at the original outset of the tenancy which pre-dates the start of tenancy as shown on the tenancy agreement, as above.

Arising from a variety of concerns related to the tenancy, the landlord issued a 1 month notice to end tenancy for cause dated October 15, 2010. The notice documents miscellaneous reasons for ending the tenancy. Subsequently, the tenant filed his application to dispute the notice on October 25, 2010, which is within the 10 day period permitted for same under the Act. During the hearing the landlord confirmed his wish to obtain an order of possession. Further, during the hearing the parties exchanged views

on some of the circumstances surrounding the dispute and undertook to achieve at least a partial resolution.

Analysis

Section 44 of the Act speaks to **How a tenancy ends**, and provides in part as follows:

44(1) A tenancy ends only if one or more of the following applies:

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a partial resolution. Specifically, it was agreed as follows:

- that, while an order of possession will be issued in favour of the landlord, it will not be effective until December 15, 2010, which is also the end date of the fixed term of tenancy pursuant to the written tenancy agreement;
- that, in the meantime, the tenant will continue to be able to reside in the unit until December 15, 2010;
- that, outside of the hearing the parties may choose, conditional upon mutual agreement, to undertake further discussion around an “option to purchase.”

As the tenant’s application has not resulted in cancellation of the notice to end tenancy, the application to recover the filing fee is hereby dismissed.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Wednesday, December 15, 2010.** This order must be served on the tenant. 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.

DATE: November 22, 2010

Dispute Resolution Officer