



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, O

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause and other. Both parties participated in the conference call hearing.

Issues to be Decided

Is the tenant entitled to any of the above under the Act.

Summary of Background and Evidence

This 1 year, fixed term tenancy started December 1, 2007 with monthly rent of \$799.00, the tenant paid a security deposit of \$375.00. On October 28, 2010 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: 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; put the landlord's property at significant risk.

It must be noted that the tenant did not file for dispute resolution until November 26, 2010, well past the 10 day deadline s defined in the Act. Page 2 of the 1 Month Notice to End Tenancy for Cause clearly states:

INFORMATION FOR TENANTS WHO RECEIVE THIS NOTICE TO END TENANCY

- You have the right to dispute this Notice within 10 days after you receive it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. A Dispute Resolution Officer may extend your time to file an Application, but only if he or she accepts your proof that you had a serious and compelling reason for not filing the Application on time.
- If you do not file an Application within 10 days, you are presumed to accept this Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of this Notice (You can move out sooner.) If you do not file an Application, move or vacate, your landlord can apply for an Order of Possession that is enforceable through the court.

The tenant stated that she did not receive the 1 month notice to end tenancy for cause that was posted on her door October 28, 2010 and considers to have received the notice on November 26, 2010 after it was given to her in person by a police officer. The tenant also stated that she had paid rent since the time of the notice and felt that the tenancy had been re-instated.

The landlord's agent stated that the tenant in the past when served with a notice to end tenancy always claimed to have not received the notices. The October 28, 2010 notice was posted to the tenant's door by the property manager with the resident manager as witness. The landlord's agent has also issued the tenant 'for use and occupancy' receipts for rent paid after the notice was served.

I accept the landlord agent's testimony regarding service of the notice and based on the October 28, 2010 service date the tenant has not filed for dispute resolution within the 10 day time period specified on page 2 of the notice and is presumed to have accepted the notice.

The landlord's agent stated that the police were at the tenant's unit on December 6, 2010 and that stolen property was seized by the police from the tenant's unit. Witness statements submitted into evidence by the landlord shows that tenants who live near the applicants unit believe that illegal substances are possibly being trafficked out of the unit due to the large number of people that come by, meet with someone at the tenant's patio for a few moments and then immediately leave. People have been observed arriving on bicycles, leaving and then coming back a few minutes later are believed to be running illegal substances for someone in the tenant's unit.

The landlord's agent feels that the actions of the tenant and the strangers that come and go from the tenants unit have put the landlord's property at significant risk and seriously jeopardized the health or safety of other tenants and the landlord.

As the tenant still occupies the rental unit, the landlord, in this hearing, has requested an order of possession effective 2 days after service on the tenant.

The tenant testified that the resident manager had entered her rental unit without providing 24 hours notice on December 6, 2010 and that is why the police came back to check for stolen property. The tenant did not comment on or dispute the number of people coming to her suite, only that did this mean she could not have friends over.



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Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for cause. The tenant did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

The tenant's application is hereby dismissed.

Conclusion

The tenant's application is hereby dismissed.

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenants. This Order must be served on the Tenants 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*.

Dated: December 17, 2010

Dispute Resolution Officer