



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, RP

Introduction

On October 07, 2010 the Honorable Mr. XXX ordered the Residential Tenancy Branch to reconsider the effective date of an Order of Possession issued to the landlord on August 4, 2010 under s. 55(1) of the Residential Tenancy Act. Specifically, the Residential Tenancy Branch was ordered to reconsider the appropriate notice period.

Issues(s) to be Decided

In this instance what is an appropriate notice period for the Order of Possession?

Background

The tenant was served with a notice to end tenancy dated March 31, 2010 with an effective date of April 30, 2010. The tenant disputed the notice by filing for dispute resolution with the Residential Tenancy Branch. The Residential Tenancy Branch upheld the Notice to end the tenancy and issued an Order of Possession to be effective two days after service. The tenant applied to the Supreme Court for a Judicial review of the Residential Tenancy Branch decision. The Honorable Mr. XXX upheld the Notice to End Tenancy but ordered the Residential Tenancy Branch to reconsider the effective date.

Analysis

Based on the One Month Notice to End the tenancy issued March 31, 2010, the tenancy would have ended April 30, 2010. In response to an application for dispute resolution made by the tenant, the Residential Tenancy Branch held a hearing May 28, 2010. The hearing began and then was adjourned and reconvened July 16, 2010.

The decision and the Order of Possession were rendered August 4, 2010. The order of possession was therefore issued to the landlord on a date that was well past the effective date of the notice. For these reasons, I believe the tenancy should end as soon as possible and I find that the notice period on the original order of possession is appropriate.

Conclusion

I grant the landlord an order of possession effective two days after service 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.

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 24, 2010.

Dispute Resolution Officer