

DECISION

Dispute Codes MT, CNC

Introduction

This matter dealt with an application by the Tenant for more time to cancel a Notice to End Tenancy and to cancel a One Month Notice to End Tenancy for Cause dated January 31, 2011. However, I find that the Tenant applied to cancel the One Month Notice within the time limit granted under s. 47(4) of the Act and as a result, I find that his application for more time is unnecessary and it is dismissed without leave to reapply.

The oral hearing via teleconference started at 11:00 a.m. as scheduled however, by 11:10 a.m. the Tenant/Applicant had not dialled into the conference call and as a result, the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?

Background and Evidence

This tenancy started on November 1, 2010. On January 31, 2011 the Landlords served the Tenant in person with a One Month Notice to End Tenancy for Cause dated January 31, 2011. The grounds stated on the Notice were as follows:

- The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlords said the tenant rents a bedroom in the lower part of the rental property and shares kitchen and bathroom facilities with another tenant. The Landlords said the Tenant was advised at the beginning of the tenancy that the other tenant worked shift work and as a result, he needed to be quiet when this tenant was sleeping. The Landlords claim that the other tenant in the rental unit threatened to move out because the Tenant frequently had guests over and made an unreasonable amount of noise which interfered with his sleep. The Landlords also claimed that the other tenant was upset with the Tenant for failing to clean up after himself in the kitchen and bathroom.

The Landlords said that the Tenant and the other tenant appear to have worked out an agreement between themselves regarding these issues. The Landlords also said however, that said they advised the Tenant that they still intended to go through with the hearing of his application and did not tell the Tenant that they would withdraw the One Month Notice.

Analysis

Section 47(4) of the Act says that a Tenant who receives a One Month Notice to End Tenancy must apply for dispute resolution to cancel the Notice within 10 days of receiving it. The Tenant applied for dispute resolution to cancel the Notice on February 8, 2010 and in support of his application, the Tenant filed written submissions. However, I find that the Tenant's written submissions are not evidence but rather hearsay and are unreliable. The Tenant did not attend the hearing to give any oral evidence in support of his application and in the circumstances, I find that there is insufficient evidence to grant the Tenant's application to cancel the One Month Notice to End Tenancy for Cause and it is dismissed without leave to reapply.

As a result, the One Month Notice to End Tenancy for Cause dated January 31, 2011 remains in force and effect. The Landlords requested and I find pursuant to s. 55(1) of the Act that they are entitled to an Order of Possession to take effect on February 28, 2011 at 1:00 p.m.

Conclusion

The Tenant's application is dismissed without leave to reapply. An Order of Possession to take effect at 1:00 p.m. on February 28, 2011 has been issued to the Landlords. A copy of the Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

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: February 24, 2011.

Residential Tenancy Branch