

DECISION

Dispute Codes:

OPC

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Cause.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

Preliminary Matter

The tenant had difficulty dialling in to the conference call hearing. Several attempts were made to call the tenant in via the process used for witnesses. Ultimately, the tenant was able to participate in the hearing via speaker phone on the landlord's cell phone. The tenant was able to ask questions, respond to my questions and provide testimony.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for Cause?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenant confirmed receipt of a 1 Month Notice ending tenancy for cause issued on December 31, 2010; on that date. Rent is due on the first day of the month; the effective date of the Notice was January 31, 2011.

The reasons stated for the Notice to End Tenancy were that the tenant has been repeatedly late paying her rent; that the; that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful interest of another occupant or the landlord; that the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk; that the tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or well-being of another occupant; that the tenant has engaged in illegal activity that has, or is likely to, jeopardize a lawful right or interest of another occupant or the landlord.

The tenant testified that he attended at the Residential Tenancy Branch (RTB) office to submit an Application disputing the Notice and was told to make improvements to his Application before it would be accepted. The tenant did not return to resubmit an Application. The tenant stated that he needed to find an advocate and is dyslexic.

The tenant thought the landlord should have to reissue a Notice as some much time has passed since the Notice was issued.

On February 22, 2011, the landlord applied requesting an Order of possession. The landlord delayed his Application as he kept giving the tenant more time to move out. This was confirmed by the tenant.

The landlord stated he would give the tenant until March 15, 2011, to vacate the unit.

Analysis

Even if the tenant had his Application rejected by the RTB; which I find, on the balance of probabilities, highly unlikely; an Application requesting more time may not be considered after the effective date of the Notice; as provided by section 66(3) of the Act.

There is no evidence before me that the tenant submitted an Application disputing the Notice, prior to the January 31, 2011, the effective date of the Notice.

Section 47(5) of the Act provides:

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*
- (b) must vacate the rental unit by that date.*

Therefore, I find, pursuant to section 55 and 47(5) of the Act, that the landlord is entitled to an order of possession effective March 15, 2011; a date provided by the landlord as acceptable.

As the landlord's Application has merit I find that the landlord is entitled to filing fee costs.

Conclusion

The landlord has been granted an Order of possession that is effective **March 15, 2011, at 1 p.m.** This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for \$50.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court

Dated: March 03, 2011.

Residential Tenancy Branch