



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNL

Introduction

This matter dealt with an application by the Tenant to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property dated February 22, 2011. The oral hearing via teleconference started at 1:30 p.m. as scheduled however by 1:40 p.m. the Tenant 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 month-to-month tenancy started on April 1, 2004. Rent is currently \$650.00 per month. On February 22, 2011 the Landlords served the Tenant in person with a 2 Month Notice to End Tenancy for Landlord's Use of Property dated February 22, 2011. The ground stated on the Notice was that "all of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit."

The Landlords claim that since they received the Tenant's hearing package in this matter, they have come to a mutual agreement with the Tenant to end the tenancy on April 20, 2011. However, the Landlords said they still wanted an Order of Possession to take effect on April 30, 2011 in the event the Tenant changed her mind.

Analysis

Section 49(9) of the Act says that if a Tenant who receives a 2 Month Notice does not make an application for dispute resolution within 15 days of receiving the Notice, then the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit by that date.

I find that the Tenant was served in person with the 2 Month Notice to End Tenancy on February 22, 2011 and therefore she had until March 9, 2011 **at the latest** to file her application to dispute that Notice. However, I find that the Tenant filed her application on to dispute the 2 Month Notice on March 10, 2011. Consequently, given that the Tenant filed her application outside of the time limit permitted under s. 49(8) of the Act, and given further that the Tenant did not attend the hearing to provide evidence in support of her application, her application is dismissed without leave to reapply.

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 at 1:00 p.m. on April 30, 2011.

Conclusion

The Tenant's application is dismissed without leave to reapply. An Order of Possession to take effect at 1:00 p.m. on April 30, 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: March 31, 2011.

Residential Tenancy Branch