



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MT, CNC, FF

Introduction

This Hearing was scheduled to hear the Tenant's application for more time to file his application to cancel a Notice to End Tenancy; to cancel a Notice to End Tenancy for Cause; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

Preliminary Matter

On March 2, 2011, the Landlord issued a Notice to End Tenancy for Cause (the "Notice") for several reasons, one of which was repeated late payment of rent. The Tenant received the Notice on March 2, 2011, and filed his application on March 23, 2011. Current monthly rent is \$536.00, due on the first day of each month.

During the course of the Hearing, the Tenant advised that he had been late paying rent for the past 8 consecutive months and that he did not wish to cancel the Notice. He stated that he wished to negotiate more time to move out of the rental unit.

The Landlord's agent declined to negotiate a later date and requested an Order of Possession.

Issue(s) to be Determined

Is the Landlord entitled to an Order of Possession?

Background and evidence

Section 55(1) of the Act states:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of

possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

A tenant can be found to be “repeatedly late” paying rent if he or she is late at least 3 times. In this case, the Tenant agreed that he was late paying rent for 8 consecutive months and therefore I find that the Notice is a valid Notice and is upheld.

Based on the Tenant’s testimony, I am satisfied that the he was served with the 2 Month Notice to End Tenancy on March 2, 2011. A Notice is effective not earlier than one month after the date the Notice is received, and the day before the day in the month that rent is payable. Therefore, I find that the effective date of the end of the tenancy is April 30, 2011. Further to the provisions of Section 55(1) of the Act, I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., April 30, 2011.**

The Tenant has not been successful in his application and is not entitled to recover the cost of the filing fee from the Landlord.

Conclusion

The Tenant’s application is dismissed without leave to re-apply.

I hereby provide the Landlord an Order of Possession effective **1:00 p.m., April 30, 2011** for service on the Tenant. This 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: April 13, 2011.

Residential Tenancy Branch