



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a Notice to End Tenancy for Cause (the "Notice").

Both parties gave affirmed testimony at the Hearing.

Preliminary Matter

Neither party provided a copy of the Notice in evidence. I invited both parties to provide me with the particulars of the Notice. The parties agreed on the following facts:

- The Notice was signed by the Landlord and dated May 17, 2011;
- The Notice gave the address of the rental unit;
- The Notice stated the effective date;
- The grounds for ending the tenancy are: the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority; and
- The Notice was provided in the approved form.

I was satisfied, based on the testimony of both parties, that the Notice complied with the provisions of Section 52 of the Act and the Hearing proceeded.

Issue(s) to Be Decided

Should the Notice issued May 17, 2011, be cancelled?

Background and Evidence

The Landlords gave the following relevant testimony:

- In March, 2011, the Landlords received a warning from a City By-Law enforcement officer that the rental unit was not a legal suite and would have to be removed.
- The Landlords wrote to the Tenant on March 27, 2011, advising him of the situation and asking him to vacate the premises by April 30, 2011. A copy of this letter was provided in evidence.
- On May 5, 2011, the Landlords received a letter from the City By-Law and Licensing Section stating that the suite is an illegal dwelling and must be removed. The letter also states that a follow-up inspection will take place on July 7, 2011 at 1:30 p.m. to confirm removal. A copy of this letter was provided in evidence.
- On May 17, 2011, the Landlords issued the Notice and put it in the Tenant's mail box at the rental unit.

The Tenant gave the following relevant testimony:

- The Tenant received the Notice on May 17, 2011.
- The Tenant asked for more time to find suitable accommodation for his family.

The Landlords gave the following reply:

The Landlords declined to allow the Tenant more time to move out. They stated that the Tenant knew that the City was going to order the removal of the rental unit for nearly 3 months. The Landlords stated that they had attempted to help the Tenant find other accommodation, but the Tenant was not interested. The Landlords stated that they are subject to fines by the City if they do not comply with the City's order. The Landlords asked for an Order of Possession effective June 30, 2011.

Analysis

The Landlords seek to end the tenancy pursuant to the provisions of Section 47(1)(k) of the Act. The Landlords provided a copy of the municipal government authority's order. I find that the Landlords' Notice is a valid notice and dismiss the Tenant's application to cancel the Notice to End Tenancy issued May 17, 2011.

Section 55(1) of the Act states:

Order of possession for the landlord

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.

Section 47(2) of the Act states:

Landlord's notice: cause

47 (2) A notice under this section must end the tenancy effective on a date that is

- (a) not earlier than one month after the date the notice is received, and
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The Notice was placed in the Tenant's mail box on May 17, 2011. Section 90 of the Act deems service in this manner to be affected 3 days after leaving the document in the mail box. Therefore, I find that the effective date of the end of the tenancy is June 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., June 30, 2011.**

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., June 30, 2011**. This Order must be served on the Tenant and 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: June 17, 2011.

Residential Tenancy Branch