



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MT, CNC, OPC

Introduction

This hearing dealt with applications by the tenant and the landlord pursuant to the *Residential Tenancy Act*. The landlord had served a notice to end tenancy for cause and the tenant applied for an order to set aside this notice and for more time to do so. The landlord applied for an order of possession pursuant to this notice.

The landlord was represented by the Property Manager. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to more time to dispute the notice to end tenancy?

Background and Evidence

The tenancy began on July 01, 2001. After receiving several complaints from the other occupants of the building, regarding the activities of the tenant, on May 19, 2011, the landlord served the tenant with a one month notice to end tenancy for cause.

The notice to end tenancy alleges that the tenant has significantly interfered with or unreasonably disturbed another occupant and has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant jeopardized a lawful right or interest of another occupant.

Despite receiving the notice on May 19, 2011, the tenant applied to dispute the notice on June 29, 2011. The tenant stated that she intended to move out by June 30, 2011 - the effective date of the notice and had found a place to move into. However when the new landlord called for a reference, the tenant stated that the current landlord provided a negative one which resulted in the collapse of the prospective new tenancy.

Through the hearing, the tenant was belligerent, slurred her speech and used swear words to address both the landlord and myself. It appeared as if the tenant was delusional and/or under the influence of a substance.

Analysis

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy for cause on May 19, 2011. The tenant did not apply to dispute the notice until June 29, 2011, a full 41 days after receiving the notice.

Section 47(5) of the Act provides that tenants have 10 days in which to dispute a one month notice to end tenancy, failing which they are conclusively presumed to have accepted the end of the tenancy. The tenant has applied for more time to do apply to dispute the notice. I am unable to grant the tenant more time to make her application without proof that exceptional circumstances prevented her from complying with the statutorily prescribed timeframe.

Section 66(1) of the Act provides:

The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59(3).

The tenant testified that she lost an opportunity for a new rental unit because of a bad reference from her landlord. I do not find exceptional circumstances in this situation and accordingly dismiss the request for an extension of time to apply to dispute the notice. The notice is upheld and the tenancy will end in accordance with the notice. The tenant's claim to set aside the Notice is dismissed.

I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective two days after service on the tenant.

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: July 29, 2011.

Residential Tenancy Branch