

Decision

Dispute Codes: CNC, OLC, FF

Introduction

This hearing was convened in response to the tenant's application for cancellation of a notice to end tenancy for cause / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to any or all of the above under the Act, Regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on July 15, 2009. Monthly rent is currently \$674.00, but increases to \$688.00 effective August 1, 2011. A security deposit of \$328.00 was collected near the start of tenancy.

The landlord issued a 1 month notice to end tenancy for cause dated June 24, 2011. The notice was served by way of posting on the tenant's door on that same date, and was attached to a letter also dated June 24, 2011. A copy of the letter and the notice were entered into evidence.

As to the reason for issuance of the notice, in the letter there is reference to section 47 of the Act which speaks to **Landlord's notice: cause**. Specifically, the following excerpt from the Act appears in the letter:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,...

However, the reason shown on the notice itself for issuance is as follows:

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The tenant filed an application to dispute the notice on July 4, 2011.

Additional evidence includes, but is not limited to, a letter to the landlord from another resident dated July 27, 2010, in which the resident identifies specific concerns about the tenant's conduct. Thereafter, letters from the landlord to the tenant in which concerns related to the tenancy are set out comprise three, dated as follows: August 17, 2010, May 20, 2011, and June 9, 2011. While the landlord has offered to meet with the tenant in order to discuss various concerns arising from the tenancy, up to the time of the hearing the tenant had neither accepted nor declined the offer.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the tenant will vacate the unit by not later than September 30, 2011, and that an order of possession will be issued in favour of the landlord to that effect.

The aspect of the tenant's application concerning an order instructing the landlord to comply with the Act, Regulation or tenancy agreement is hereby dismissed. The dismissal arises out of my understanding that this part of the application overlaps with the aspect requesting that notice to end tenancy be set aside. Further, the dismissal arises out of my understanding that this part of the application pertains more directly to matters related to freedom of information and privacy, and not tenancy *per se*.

As the outcome sought by the tenant is not the same as that agreed to between the parties, the tenant's application to recover the filing fee is also hereby dismissed.

Notwithstanding the settlement achieved during the hearing, the attention of the parties is drawn to the provisions in section 56 of the Act which speaks to **Application for order ending tenancy early**, and provides in part as follows:

56(1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end tenancy.

Conclusion

Pursuant to the above, I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Friday, September 30, 2011.** This order must be served on the tenant. 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.

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*.

DATE: July 27, 2011

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