



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

The tenant applied to cancel a Notice Ending Tenancy for Cause.

The tenant failed to attend the hearing in support of her application. The landlord's agent was present at the scheduled start time; 1:30 p.m. The hearing concluded at 1:41 p.m.

The Agent for the landlord stated that he only found out about the hearing as another occupant had told him; he then approached the tenant to obtain the hearing details.

Preliminary Matters

The landlord was asked to submit a copy of the Notice Ending Tenancy for Cause to the Residential Tenancy Branch office no later than 10 a.m. on October 18, 2011. A copy of the Notice was not provided; however, I have based this decision on the tenant's application and the affirmed testimony of the landlord.

Issue(s) to be Decided

The tenant did not supply a copy of the Notice ending tenancy. The landlord did not submit any evidence.

During the hearing I reviewed the Notice with the landlord; he had a copy before him. Each section of the application was reviewed and the landlord provided affirmed testimony confirming the details of the Notice.

The 1 Month Notice Ending Tenancy for Cause was issued and served to the tenant on September 1, 2011 by posting to her door. The Notice gave one reason and directed the tenant to vacate the rental unit on September 30, 2011. The reason stated for the Notice to End Tenancy was that the tenant has allowed an unreasonable number of occupants in the unit.

The tenant rents a room in a home and shares the kitchen and bathroom. The owner does not reside in the home. Rent is due on the first day of each month.

The landlord stated he wants the tenant to move out.

Analysis

As the tenant failed to attend the hearing in support of her application I find that the application is dismissed.

Section 55(1) of the Act provides:

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.*

The landlord stated that he wants the tenant to vacate the rental unit; I find this is equivalent to a request for an Order of possession. As the tenant's application is dismissed, an Order of possession will be issued to the landlord.

I find that the tenant received the Notice on September 2, 2011, as indicated on her application.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to October 31, 2011. Therefore, as the tenant's application is dismissed and the landlord has requested an Order of possession, I find that the tenancy will end no later than October 31, 2011, at 1 p.m.

I note that the tenant applied to dispute the Notice 13 days after the tenant received the Notice. An application to dispute a 1 Month Notice must be made within 10 days of service of that Notice. The tenant had applied requesting more time to dispute the Notice; no evidence was supplied as to why the application was not made within the required time frame.

Conclusion

The tenant's application is dismissed.

The landlord has been granted an Order of possession that is effective **October 31, 2011 at 1 p.m.** This Order may be served on the tenant, filed with 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: October 18, 2011.

Residential Tenancy Branch