



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, ERP, RR, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order allowing more time to make an application to cancel a notice to end tenancy – Section 66;
2. An Order Cancelling a Notice to End Tenancy for Cause - Section 47;
3. An Order for the Landlord to make emergency repairs to the unit – Section 32;
4. An Order allowing the tenant to reduce rent for repairs agreed upon but not provided – Section 65; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to more time to make an application to cancel the Notice to end tenancy?

Is the Notice valid?

Is the Tenant entitled to an Order requiring the Landlord to make repairs and to an Order reducing rent for repairs?

Background and Evidence

The Tenant states that on November 1, 2011 she personally received the notice to end tenancy for cause (the “Notice”) on November 1, 2011 from the Landlord. The Tenant

filed the application to cancel the Notice on November 24, 2011. The Tenant states that she had no way to travel to Penticton where she could file the application. The Tenant states that she has no friends or family that could drive her and that she had no money to take a bus. The Tenant further states that she has a bipolar and attention deficit disorder that also caused her not to be able to make the application in time.

The Tenant states in relation to her claim for emergency repairs and for a reduction in rent for repairs that she refers to a plugged sink. The Tenant states that she has not informed her Landlord of the problem.

The Landlord provided written submissions on the operation of the Act in relation to the Tenant's request for more time and at the hearing requested an Order of Possession.

Analysis

Section 47 of the Act requires that upon receipt of a Notice to end Tenancy for Cause, the tenant may, within ten days of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the unit by that date. Section 66 of the Act provides that a time limit, such as the ten day limit noted above, may be extended only in exceptional circumstances. Based on undisputed evidence I find that the Tenant was validly served with the Notice. The Tenant filed an application to dispute the Notice beyond the ten day limit. Although the Tenant provided reasons as to why the application was not made within the ten day limit, I find that those reasons are not exceptional reasons as contemplated by the Act. Accordingly, I dismiss the Tenant's application in relation to the cancellation of the Notice.

As the Tenant did not inform the Landlord of the plugged sink and as the tenancy has ended, I dismiss the remainder of the Tenant's application.

Section 55 of the Act provides that where a tenant's application to dispute a landlord's notice to end a tenancy is dismissed and the landlord makes an oral request for an order of possession, such an order must be granted.

As I have dismissed the Tenant's application to cancel the Notice and as the Landlord requested an Order of Possession at the hearing, I find that the Landlord is entitled to an Order of Possession.

Conclusion

The Tenant's application is dismissed.

I grant an Order of Possession to the Landlord. The Tenant must be served with this **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.

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: December 12, 2011.

Residential Tenancy Branch