

Decision

Dispute Codes: MT, CNC / OPC

Introduction

This hearing was convened in response to the tenant's application for more time to cancel a notice to end tenancy / and cancellation of a notice to end tenancy for cause. Both parties participated in the hearing and gave affirmed testimony. During the hearing the landlord orally confirmed that she seeks an order of possession.

Issues to be decided

- Whether either party is entitled to any 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 10, 2011. Monthly rent of \$575.00 is payable in advance on the first day of each month, and a security deposit of \$287.50 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated October 6, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, on October 24, 2011 the tenant filed an application for dispute resolution. However, as neither party attended the hearing scheduled on November 16, 2011, the application was dismissed with leave to reapply. The tenant reapplied on November 25, 2011 and this present hearing was scheduled.

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 as soon as possible but, in any event, by not later than 1:00 p.m., Wednesday, February 29, 2012, and that an order of possession will be issued in favour of the landlord to that effect;
- that in the interests of assisting the tenant to vacate the unit as soon as possible, the landlord waives her entitlement to proper notice to end tenancy which is required in a periodic tenancy pursuant to section 45 of the Act (**Tenant's notice**).

In the meantime, as discussed during the hearing, the attention of the parties is drawn to section 56 of the Act which speaks to **Application for order ending tenancy early**. In part, this section of the Act provides:

56(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 the tenancy.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Wednesday, February 29, 2012**. 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: December 12, 2011

Residential Tenancy Branch