



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC / OPC

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for cause. The landlord attended the conference call hearing at the scheduled start time of 1:30 p.m. and gave affirmed testimony. However, as at 1:40 p.m. the tenant had still not appeared. During the hearing the landlord made an oral request for an order of possession.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

On March 15, 2010, the tenant began his tenancy in the subject unit as a result of joint sponsorship from the "Housing 1st Placement Team" and the "Vancouver Coastal Health Addiction Housing Services Program." It is understood that as a result of conduct and behaviour considered to be in breach of the conditions associated with his participation in a related rehabilitative program, the landlord issued a 1 month notice to end tenancy for cause dated May 30, 2012, a copy of which is not in evidence. The landlord testified that the notice was served in-person on the tenant on May 30, 2012, and that the tenant is required to vacate the unit by July 1, 2012. The tenant's application to dispute the notice was filed on June 13, 2012.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of landlord, I find that the Act does not apply to the circumstances of this dispute. In this regard, section 4 of the Act speaks to **What this Act does not apply to**, and provides in part as follows:

4 This Act does not apply to

(g) living accommodation

(vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,...

Accordingly, in the absence of jurisdiction, the tenant's application and the landlord's oral request for an order of possession are both hereby dismissed.

Further to the above, even if I were to find that the circumstances of this dispute fell within the jurisdiction of the Act, I note that the 1 month notice was served on May 30, 2012, and that it was not until June 13, 2012 when the tenant filed his application to dispute the notice. In regard to the period of time available to dispute a notice, section 47 of the Act which addresses **Landlord's notice: cause**, provides in part as follows:

47(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

I find that as the notice was served on the tenant on May 30, 2012, the tenant had until Monday, June 11, 2012 (as the 10th day is Sunday, June 9, 2012) to file his application. The tenant's application was filed late (outside the 10 day period available) on June 13, 2012. As well, in his application the tenant has not applied for more time to make an application to cancel a notice to end tenancy. In short, had there been jurisdiction to consider the dispute, the tenant's application would have been dismissed.

Conclusion

In the absence of jurisdiction, the tenant's application and the landlord's oral request for an order of possession are both hereby dismissed.

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: June 28, 2012.

Residential Tenancy Branch