



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MT, CNR, AAT, FF

Introduction

This is the Tenant's application dated November 29, 2012 to be allowed *more time* to file an application to cancel a Notice to End Tenancy for Unpaid rent dated and received November 05, 2012; to cancel a Notice to End Tenancy for unpaid rent; for the tenant to be allowed access to the unit, and to recover the cost of the filing fee from the Landlord. Both parties attended and were permitted to provide submissions and oral testimony in the hearing.

The *style of cause* is amended to reflect the proper name particulars of the landlord. In the hearing the landlord orally requested an Order of Possession, in accordance with Section 55 of the Act.

The tenant testified they are in midst of moving from the rental unit in the next 48 hours.

Preliminary Matters

This Hearing was scheduled, in part, to deal with the Tenant's application to be allowed *more time* to file an application to cancel the Notice to End Tenancy. Section 66(3) of the Residential Tenancy Act (the Act) states:

Director's orders: changing time limits

- 66** (3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

The Tenant testified they personally received the Notice to End Tenancy for unpaid rent November 05, 2012; therefore, pursuant to the provisions of Section 46 of the Act, the *effective date* of the Notice is November 15, 2012. Therefore, pursuant to the provisions of Section 66(3) of the Act, the Tenant's application dated November 29, 2012 for more time to dispute the Notice to End **is dismissed**. Therefore,

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession?

Background and Evidence

During the course of the hearing, and in spite of the foregoing, the parties discussed their dispute and agreed on the primary issue in dispute to the full satisfaction of both parties: that the tenant is vacating, and does not oppose the landlord's request for an Order of Possession.

Analysis

I find that the tenant may not request cancellation of the Notice to End; and in addition are moving; therefore they do not oppose the landlord's possession of the rental unit. I find that the tenancy will end in accordance with my Order. I further find that the tenant's remaining application for access to the unit is irrelevant now that the tenancy is ending, and I dismiss this portion of their claim. As the tenant's application is effectively **dismissed** in its entirety, I decline to grant the tenant recovery of their filing fee from the landlord.

The landlord is entitled to an **Order of Possession**.

Conclusion

The Tenant's application **is dismissed** in its entirety, without leave to reapply.

I hereby provide the Landlord with an Order of Possession **effective 2 days from the day it is served on the tenant**. This Order must be served on the Tenant and if necessary may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision and Order are final and binding on both parties

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: January 09, 2013.

Residential Tenancy Branch

