



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

At the hearing, the tenant advised that he did not dispute that the tenancy should end pursuant to the notice to end tenancy. The landlord asked for an order of possession at the hearing pursuant to section 55(1) of the Act. The only matter at issue was the date on which the order of possession should take effect.

Issue to be Decided

When should the order of possession take effect?

Background and Evidence

The landlord served on the tenant a notice to end tenancy for cause with an effective date of February 28, 2012.

The landlord asked for an order of possession effective on March 31, 2012 and argued that because the tenant has verbally abusive to staff members and given access to the building to people who had been banned because of their past behaviour, staff and other occupants were at risk during the time he remains in occupancy.

The tenant acknowledged that his behaviour had been inappropriate and that he had engaged in the behaviours alleged by the landlord. The tenant's advocate argued that the tenant suffers from numerous disabilities and that moving on short notice will be difficult as a result. Further, the tenant requires time to find other housing in order to avoid homelessness. The advocate pointed out that the tenant's actions have not involved violence and that the safety of other tenants was not at risk.

Analysis

Sections 55(3) and 68(2)(a) of the Act grant me discretion to order that a tenancy end on a date other than the effective date of a notice to end tenancy. In this case, the effective date of the notice has already passed.

I agree that the tenant does not appear to pose a physical threat to the staff and occupants of the residential property. However, to extend his tenancy too long is to demand that staff members continue to be subject to his verbal abuse, as there is little indication from his past behaviour that he is capable of conducting himself appropriately.

I am then tasked with balancing the tenant's interests with those of the landlord. Given the tenant's disabilities and the fact that it will take some effort to find suitable accommodations for him, I find it appropriate to extend the end of tenancy date to April 15, 2013 as I believe that with approximately 1 month from the date of this hearing and 2 ½ months from the date he received the notice to end tenancy, the tenant will have been given adequate opportunity to find housing.

I direct the tenant to pay one half of the usual monthly rent to the landlord on or before April 1, 2013. The landlord will not reinstate the tenancy by mere acceptance of this payment.

I further direct the tenant to comply with the rules of the building, including not granting entrance to people he knows have been banned from the building, and to behave reasonably toward staff members. The landlord is free to apply for an early end to tenancy should the tenant fail to behave in a reasonable fashion.

Conclusion

The tenant's application is dismissed. I grant the landlord an order of possession effective April 15, 2013. This order may be filed in the Supreme Court 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: March 18, 2013

Residential Tenancy Branch

