



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order cancelling a 1 Month Notice to End Tenancy for Cause (the "Notice"), for an order granting more time to make an application to cancel a notice to end tenancy, and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing neither party raised any issues regarding service of the application or the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the Notice?

Is the tenant entitled to an order granting more time to make an application to cancel a notice to end tenancy?

Background and Evidence

I heard undisputed evidence that this tenancy began on April 1, 2003, and monthly rent is currently \$849.

Pursuant to the Residential Tenancy Branch Rules of Procedure, the landlord proceeded first in the hearing to explain or support the Notice to End Tenancy.

The landlord said that the tenant was served a 1 Month Notice to End Tenancy for Cause (the "Notice") by posting it on the tenant's door on April 4, 2013, listing a move out date of May 31, 2013. The tenant confirmed that she received the Notice on April 4, 2013.

The Notice informed the tenant that she had 10 days after receiving the Notice to file an application to dispute the Notice or she is presumed to have accepted the Notice and move out by the effective date of the Notice.

In the case before me, the tenant applied to dispute the Notice on April 17, 2013, 13 days after she was served with the Notice.

In response to my question, the tenant said that she was unable to file an application for dispute resolution within the required 10 days because she had a job and was busy.

In the hearing the landlord requested an order of possession.

Analysis

Under section 66(1) of the *Residential Tenancy Act*, an extension of time can only be granted where the applicant, the tenant in this case, has established that there are exceptional circumstances, such as a medical emergency or an earthquake.

I find the tenant's reason for not making a timely application, due to being busy, does not prove that exceptional circumstances prevented her from filing her application within 10 days of having been served with the Notice. I therefore deny the tenant's application for an extension of time.

As I have dismissed the tenant's request for an extension of time to file her application to dispute the Notice, I likewise dismiss the tenant's application to cancel the Notice as she was conclusively presumed to have accepted that the tenancy ends on May 31, 2013, the effective move out date of the Notice, for her failure to file her application within 10 days.

As I have dismissed the tenant's application, I grant the landlord's verbal request for an Order of Possession, pursuant to section 55(1) of the Act.

I therefore grant the landlord an order of possession for the rental unit effective at 1:00 p.m. on May 31, 2013, the effective date listed on the Notice. This final, legally binding order of possession is enclosed with the landlord's Decision.

Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement, such as bailiff fees, are recoverable from the tenant.

Conclusion

The tenant's application for an extension of time and for an order cancelling a Notice to end tenancy is dismissed.

The landlord is granted an order of possession for the rental unit effective May 31, 2013, at 1:00 p.m.

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* and is being mailed to both the applicant and the respondent.

Dated: May 15, 2013

Residential Tenancy Branch

