



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 1 month notice to end tenancy for cause. Both parties attended and gave affirmed testimony.

During the hearing the landlord's agent confirmed that the landlord seeks an order of possession in the event the tenant's application does not succeed.

Issue(s) to be Decided

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

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began nearly five (5) years ago. Monthly rent is currently \$565.00. At the start of tenancy a security deposit was collected, however, the parties were presently unable to confirm its amount.

Pursuant to section 47 of the Act, which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy for cause dated May 6, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is June 30, 2013. Reasons identified on the notice in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord

The tenant filed an application to dispute the notice on May 8, 2013.

During the hearing the parties undertook to resolve the dispute in a way that was acceptable to them both.

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 speaks to the **Opportunity to settle dispute**. Pursuant to this provision, during the hearing the parties achieved a settlement. Specifically, it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenant will vacate the unit by no later than **Wednesday, July 31, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the tenant will give the landlord **written notice to end the tenancy** as soon as possible, in the event that she finds alternate accommodation prior to July 31, 2013.

During the hearing, the parties were advised generally of the provisions set out in section 56 of the Act which speaks to **Application for order ending tenancy early**, in part as follows:

56(1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(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.

Finally, with the end of tenancy approaching, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective no later than **1:00 p.m., Wednesday, July 31, 2013**. 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*.

Dated: June 04, 2013

Residential Tenancy Branch

