



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC LRE RR FF

Introduction

This hearing dealt with an application by the tenant for an order that the landlord comply with the Act, an order that suspends or sets conditions on the landlord's right to enter the rental unit, and a reduction in rent for repairs, services or facilities agreed upon but not provided. Both the landlord and the tenant participated in the teleconference hearing.

Preliminary Issue – Notice to End Tenancy for Cause

The tenant's application for dispute resolution indicates that the tenant was given an eviction notice for June 30, 2013. The tenant submitted a copy of a handwritten note from the landlord dated May 30, 2013, in which the landlord wrote that the note was an eviction notice for June 30, 2013. During the hearing, the tenant stated that he had received a proper eviction notice from the landlord on June 5, 2013. The landlord acknowledged that he served a one month notice to end tenancy for cause on the tenant, and the effective date of the notice is July 5, 2013. The landlord also stated that rent is due on the first day of each month. I found it was reasonable, in the circumstances, to amend the tenant's application to indicate that the tenant sought to dispute the one month notice to end tenancy for cause.

Neither the tenant nor the landlord submitted a copy of the notice as evidence for the hearing. The tenant stated he was uncertain what documents to submit, though he acknowledged receiving the information package which contains information on the dispute resolution process. It is the responsibility of the applicant to provide sufficient evidence to support their application. In this case, the tenant applied to cancel a notice to end tenancy but did not provide a copy of the notice which he sought to cancel. I therefore determined that the tenant did not provide sufficient evidence to support his application, and I dismissed the application to cancel the notice.

During the hearing the landlord verbally requested an order of possession. When a tenant applies to cancel a notice to end tenancy and the landlord verbally requests an order of possession in the hearing, if I dismiss the tenant's application to cancel the notice I must issue an order of possession. Accordingly, I grant the landlord an order of possession.

Automatic Correction of Effective Date

Under section 53 of the Act, if the effective date stated in the notice is any day other than the day before the day in the month that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month that rent is payable under the tenancy agreement. In this case the landlord stated that rent is due on the first of the month, and the effective date on the notice is July 5, 2013. The tenant stated that he received the notice on June 5, 2013. Given the evidence before me, I find that the notice is automatically corrected to July 31, 2013.

As I am ordering the tenancy ended, I find it is not necessary to address the portions of the tenant's application regarding an order that the landlord comply with the Act or an order that suspends or sets conditions on the landlord's right to enter the rental property. The tenant's application did not disclose sufficient information to support his claim for a reduction in rent. I remind the parties that the tenancy is still in effect and they must both comply with the Act until the tenancy has ended.

As the tenant's application was not successful, he is not entitled to recovery of the filing fee for the cost of this application.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective July 31, 2013. The tenant must be served with the order of possession. 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 20, 2013