



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNL

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for landlord use, as well as for an extension of time to make the application. Both the tenant and the landlord participated in the teleconference hearing.

Preliminary Issue – Extension of Time

The landlord served the tenant with the notice to end tenancy for landlord use on May 1, 2013. The effective date of the notice is July 31, 2013. A tenant who receives a notice to end tenancy for landlord use and seeks to dispute the notice must make an application to cancel the notice within 15 days of having been served with the notice. In this case the tenant did not apply to cancel the notice until June 21, 2013.

The tenant stated that the reason she did not apply until nearly two months after receiving the notice was that she initially intended to comply with the notice and move out by the effective date, but her car broke down on April 1, 2013 and she did not have the funds to repair her car. She therefore was unable to look for a new rental unit. She tried to deal directly with the landlord regarding the notice, but he refused. The tenant thought that funds would come through on May 1, 2013 so that she could repair her car and move, but that did not happen.

Under section 66(1) of the Residential Tenancy Act, an extension of time can only be granted where the applicant has established that there are exceptional circumstances. I find that in this case the tenant has failed to prove that exceptional circumstances prevented her from applying to cancel the notice. The tenant was aware at the beginning of April 2013 that her car needed repairs, and she knew on or shortly after May 1, 2013, that she would not be receiving the expected funds to repair her car. She was served with the notice on May 1, 2013, and could have made her application to dispute the notice by May 16, 2013. I therefore dismiss the tenant's application.

During the hearing the landlord made a request for an order of possession. Under section 55 of the Act, upon the request of a landlord I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order.

Conclusion

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: July 29, 2013

Residential Tenancy Branch