



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kitsilano Mgmt Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord's agent only.

During the hearing, the landlord verbally requested an order of possession should the tenants be unsuccessful in their Application.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Residential Tenancy Act (Act)*.

If the tenants are unsuccessful in their Application seeking to cancel the 1 Month Notice to End Tenancy for Cause it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

Background and Evidence

The landlord testified the tenancy began in November 2007 as a month to month tenancy for the current monthly rent of \$700.00 due on the 1st of each month.

The landlord provided into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued on June 10, 2013 with an effective vacancy date of July 10, 2013 citing the tenants or a person permitted on the property by the tenants has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified the Notice was served personally to the tenants on June 10, 2013.

Analysis

As the tenants failed to attend this hearing I dismiss their Application in its entirety without leave to reapply.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

As I have dismissed the tenants' Application and the landlord verbally requested an order of possession I find the landlord is entitled to such an order, pursuant to Section 55.

Section 47(2) stipulates that a 1 Month Notice to End Tenancy for Cause must end the tenancy effective on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement.

As such a 1 Month Notice to End Tenancy for Cause issued on June 10, 2013 could not be effective any earlier than July 31, 2013.

Section 53 of the *Act* states if a landlord or tenant gives notice to end a tenancy with an effective date that does not comply with the requirements set out in the relevant section the party is seeking to end the tenancy under the effective date is deemed to be changed to the earliest date permitted under the applicable Section.

Therefore, in accordance with Section 53 the effective date of the Notice issued by the landlord on June 10, 2013 is deemed to be changed to July 31, 2013.

Conclusion

I find the landlord is entitled to an order of possession effective **July 31, 2013 after service on the tenants**. This order must be served on the tenants. If the tenants fail to

comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 23, 2013

Residential Tenancy Branch

