



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DECKER RESIDENCE LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause and for more time to do so. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Has the tenant filed his application on time, or were there exceptional circumstances that prevented him from filing on time?

Background and Evidence

The tenant stated that he received the notice to end tenancy for cause on June 28, 2013. The notice was served in the appropriate two page format. The reasons for the notice were that the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, has put the landlord's property at significant risk and has caused extraordinary damage to the rental unit.

The tenant applied to dispute this notice approximately 20 days after he received it. The tenant did not have any reason for the delay other than that he was new to the Province and did not know that there was a limited time frame to dispute the notice. The parties discussed the reasons for the notice and during this discussion; the tenant got irate and hung up.

Analysis:

Under section 47(4) of the Act, the tenant had to dispute the notice within 10 days, or by July 08, 2013.

The tenant filed his application on July 19, 2013, some 11 days past the time required by the Act to file it. Based on the above, I find the tenant failed to file his application to dispute the notice, in a timely manner.

Policy guideline 36 for the *Act* sets out that an Arbitrator may extend or modify a time limit ***only in exceptional circumstances***. The guideline explains the word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an Arbitrator to extend that time limit. The word "exceptional" implies that the reason for failing to do something by the required time must be very strong and compelling. Furthermore, a "reason" without any force of persuasion is merely an excuse. Therefore, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

The tenant testified that the reason for the delay was that he was new to the Province and was not aware of how to go about disputing the notice. Based on the testimony of the tenant, I find that the tenant has insufficient evidence of a strong or compelling reason, or of exceptional circumstances, which would allow me to extend a time limit established by the *Act*. Therefore, I uphold the notice to end tenancy.

During the hearing the landlord orally requested an order of possession effective August 31, 2013. Under section 55 of the *Act*, I must grant that request. I grant and issue the landlord an order of possession effective August 31, 2013. This order may be enforced in the Supreme Court of British Columbia.

Conclusion

The tenant's application is dismissed. I grant the landlord an order of possession effective on or before **1:00 pm on August 31, 2013**.

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: August 23, 2013

Residential Tenancy Branch