



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MT, CNC
OPC

Introduction

This hearing was scheduled in response to the tenant's application for more time to make an application to cancel a notice to end tenancy / and cancellation of a 1 month notice to end tenancy for cause. Both parties attended and gave affirmed testimony.

During the hearing the landlord confirmed that he 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 any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on January 1, 2013. Monthly rent of \$500.00 is due and payable in advance on the first day of each month, and a security deposit of \$250.00 was collected.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy for cause dated June 26, 2013. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. There are several reasons identified on the notice in support of its issuance.

Section 90 of the Act speaks to **When documents are considered to have been received**. Pursuant to this section, when a notice is attached to a door it is deemed to have been received 3 days later. In this case, therefore, the notice is deemed to have been received on June 29, 2013.

Pursuant to section 47(4) of the Act, a tenant may dispute a 1 month notice within 10 days after the date he receives it. In the circumstances of this dispute, as the tenant is deemed to have received the notice on June 29, 2013, the 10th and final day available to him for filing his application to dispute it was July 9, 2013. Indeed, the tenant's application to dispute the notice was filed on July 22, 2013.

While the tenant spoke to some of the reasons why his application was filed late, additionally during the hearing the parties undertook to resolve the dispute.

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**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

RECORD OF SETTLEMENT

- that the tenant will vacate the unit by not later than **1:00 p.m., Sunday, September 15, 2013**, and that an **order of possession** will be issued in favour of the landlord to that effect;
- that the tenant will vacate the unit sooner than September 15, 2013 if suitable alternate accommodation can be found before that date;
- that in acknowledging the landlord's concern about a further delay in bringing an end to this tenancy, the tenant undertakes not to file an application for a review of this decision.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Sunday, September 15, 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: August 27, 2013

Residential Tenancy Branch

