



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Coast Foundation Society (1974)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, OLC

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for cause / and an order instructing the landlord to comply with the Act, Regulation or tenancy agreement. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to the current written tenancy agreement, the 5 month fixed term of tenancy is from July 1, 2013 to November 31, 2013. The landlord's agent noted in the hearing that the end date of tenancy shown on the tenancy agreement ought to read November 30.

The tenancy agreement provides that at the end of the fixed term the "tenant must move out of the residential premises." Boxes on the tenancy agreement have been initialled, respectively, by the landlord and the tenant, acknowledging that both parties understand what occurs after the end of the fixed term.

The landlord determined that a new term of tenancy will not be entered into with the tenant following the end of the current fixed term. In this regard, the landlord informed the tenant by letter dated October 4, 2013. In short, the landlord's reason(s) for wanting the tenancy to end pursuant to the terms of the agreement, arise out of what the landlord considers has been the tenant's "unacceptable behaviour." The tenant disputes the landlord's reasons for wanting the tenancy to end, and has indicated that her intention is not to vacate the unit by November 30, 2013. The landlord has not filed

an application for dispute resolution, but during the hearing the landlord's agent made an oral request for an order of possession.

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 44 of the Act addresses **How a tenancy ends**, and provides in part:

44(1) A tenancy ends only if one or more of the following applies:

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

Section 55 of the Act addresses **Order of possession for the landlord**, in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term;

Based on the documentary evidence and testimony, I find that the subject tenancy agreement provides that tenancy ends on November 30, 2013, and that the tenant must vacate the unit by not later than that date.

Further, while the landlord set out reasons in its letter to the tenant dated October 4, 2013 for determining why the tenancy will not continue after November 30, 2013, the

landlord has not issued a formal notice to end tenancy pursuant to the Act. Accordingly, there is no notice in existence which would require me to consider whether the tenant has grounds for having it set aside. The tenant's application is therefore dismissed.

Finally, as no notice to end tenancy has been issued by the landlord, I am unable to consider the landlord's oral request for an order of possession. The landlord has the option of seeking an order of possession by filing an application for dispute resolution.

Conclusion

The tenant's application is hereby dismissed.

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: November 27, 2013

Residential Tenancy Branch

