



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, OPR
MT, CNR, AS

Introduction

This hearing was scheduled in response to 2 applications: i) by the landlord for an order of possession for cause; and ii) by the tenant for more time to make an application to cancel a notice to end tenancy / cancellation of a notice to end tenancy for unpaid rent / and permission to assign or sublet because the landlord's permission has been unreasonably withheld. Both parties attended and gave affirmed testimony.

During the hearing the landlord's agent confirmed that the landlord seeks an order of possession in the event the tenant's application for cancellation of the 10 day notice to end tenancy for unpaid rent 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 fixed term of tenancy is from May 1, 2013 to April 30, 2014. Monthly rent of \$750.00 is due and payable in advance on the first day of each month, and a security deposit of \$375.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated October 16, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is November 17, 2013. Pursuant to section 53 of the Act which speaks to how **Incorrect effective dates automatically changed**, I find that the date shown on the notice by when the tenant must vacate the unit becomes November 30, 2013.

Reasons shown on the notice in support of its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

The tenant has not filed an application to dispute this notice.

Arising from rent which remained unpaid when due on December 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 3, 2013. The notice was served by posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is December 13, 2013. Pursuant to section 53 of the Act which speaks to how **Incorrect effective dates automatically changed**, I find that the date shown on the notice by when the tenant must vacate the unit becomes December 16, 2013.

Subsequently, the tenant filed an application to dispute the notice on December 6, 2013, and he continues to reside in the unit. The landlord's agent testified that since the 10 day notice was served, the tenant has made payment toward rent in the limited amount of \$375.00 on December 19, 2013.

Analysis

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.

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated December 3, 2013. While the tenant filed an application to dispute the notice within 5 days after receiving it, he did not pay the full amount of outstanding rent within 5 days after receiving the notice. During the hearing the tenant stated that he simply did not have sufficient funds. In the result, I find that the tenant's application for more time to make an application to cancel a notice to end tenancy must be dismissed, as must the tenant's application for cancellation of the 10 day notice itself. Following from all of the foregoing, which includes the landlord's oral request during the hearing, I further find that the landlord has established entitlement to an order of possession.

In the circumstances of this dispute, I find there is no requirement that I consider the events surrounding issuance of the 1 month notice to end tenancy for cause.

In view mainly of the pending end to tenancy, the tenant's application for permission to assign or sublet because the landlord's permission has been unreasonably withheld is hereby dismissed.

Conclusion

The tenant's application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. 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: January 14, 2014

Residential Tenancy Branch

