



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MT, CNR, FF

Introduction

This is the Tenant's application to be allowed more time to file an application to cancel a Notice to End Tenancy for Unpaid Rent; to cancel a Notice to End Tenancy for same; and to recover the cost of the filing fee from the Landlords.

Both parties participated in the hearing with their submissions, document evidence and testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The landlord requested an Order of Possession in the event the tenant's application is dismissed or the landlord's Notice is upheld.

The parties informed they are awaiting a Decision resulting from a previous hearing of matters unrelated to the application before this hearing. By previous agreement of the parties, the style of cause is amended to reflect that this application is filed pursuant to the *Residential Tenancy Act* (the Act).

Preliminary Matters

Tenant's application for more time to make this application.

This Hearing was scheduled, in part, to deal with the tenant's application to be allowed more time to file an application to cancel a Notice to End Tenancy for Unpaid Rent.

A tenant's application for an extension of time to file an application to cancel a Notice to End Tenancy may be granted if the tenant has proof that there were *serious* and *compelling* reasons for not filing the application on time.

Section 66 of the Act, in relevant part, states: **(emphasis mine)**

Director's orders: changing time limits

- 66** (1) The director may extend a time limit established by this Act only in **exceptional circumstances**, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*.

The tenant testified they received the landlord's Notice to End on March 02, 2014, and that on March 09, 2014 they attempted to pay half of the rent owed and the landlord refused to accept it as it was not the full amount owed. As a result the tenant determined to apply for dispute resolution and did so on March 11, 2014. It must be noted that the Notice to End clearly states that the tenant has (five) 5 days to pay the rent owed **or** file an application for dispute resolution. The tenant confirmed their testimony they attempted to pay a portion of rent on the seventh (7) day and did not file their application for dispute resolution until the ninth (9) day. As a result I do not find the events of this matter, or the reasons advanced by the tenant to be compelling, nor representing **exceptional circumstances** for not filing their application on time.

The tenant has not provided proof of serious or compelling reasons for not filing their application on time and **I dismiss** their application for an extension of time. As their application for an extension of time to cancel the Notice to End Tenancy is dismissed their application to cancel the Notice will not be heard and is **dismissed**.

Analysis

Section 55(1) of the Act states:

Order of possession for the landlord

- 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.

Pursuant to the provisions of Section 55(1) of the Act, I hereby provide the landlord with an **Order of Possession**.

Conclusion

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

I grant the landlord an Order of Possession **effective 2 days from the day it is served on the tenant**. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: March 27, 2014

Residential Tenancy Branch

