



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENTITION AND DISTRICT SOCIETY FOR COMMUNITY LIVING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O

Introduction

This matter dealt with an application by the Landlord for an Order of Possession.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the “hearing package”) by personal delivery on June 23, 2014, but the Tenant would not accept the documents; therefore the Landlord registered mailed the documents to the Tenant on June 24, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

It should be noted that the Tenant made an application which was heard on June 3, 2014 to cancel a 1 Month Notice to End the Tenancy for Cause. The Tenant was unsuccessful. As well the Tenant applied for a review consideration of that decision and the Tenant was unsuccessful.

At the start of the conference call the Tenant’s support person requested an adjournment of the hearing because the Tenant’s Advocate was unable to be at the hearing. The Arbitrator dismissed the request for an adjournment as the Tenant had a support person to help him with the hearing and the hearing is not to reargue the previous hearing or the review application, but to determine if the Landlord has the right to request an Order of Possession.

Issues(s) to be Decided

1. Does the Landlord have grounds to be awarded an Order of Possession?

Background and Evidence

The Landlord said that during the first hearing on June 3, 2014 he forgot to ask for an Order of Possession if the Tenant's application was unsuccessful. The Landlord continued to say that as the Tenant's application was unsuccessful and the Tenant is living in the rental unit therefore the Landlord has made this application requesting an Order of Possession for the July 31, 2014.

The Tenant said that his advocate could not be at the hearing so he is unsure if he can understand or follow the proceedings. The Tenant continued to say he is on a pension income and he cannot afford other accommodation so he does not want to move out of this rental unit.

It should be noted that the Tenant represented himself with no help at the original hearing dated June 3, 2014 and he did not mention the need for an advocate or a support person.

The Tenant said there are many reasons why he should not be evicted, but the Arbitrator indicated to the Tenant this hearing is not about cancelling the 1 Month Notice to End Tenancy for Cause as the Tenant did apply to do that and the Tenant was unsuccessful.

The Arbitrator explained that this hearing is focused on whether the Landlord has the right to request an Order of Possession to end the tenancy.

The Landlord said the Tenant was unsuccessful in cancelling the Notice to End Tenancy and he is now requesting an Order of Possession with an effective vacancy date of July 31, 2014.

The Tenant said he will request a review of the decision if the Landlord is successful as his Advocate was unable to attend the hearing.

Analysis

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.

(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:

(a) a notice to end the tenancy has been given by the tenant;

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

(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;

(d) the landlord and tenant have agreed in writing that the tenancy is ended.

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

(4) Despite section 61 [*setting down dispute for hearing*], in the circumstances described in subsection (2) (b), the director may, without holding a hearing,

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

I find that the Tenant's previous application to cancel a Notice to End Tenancy was unsuccessful: therefore the Landlord has established grounds for an Order of Possession to be awarded to him. I find pursuant to s. 55(1)(a) of the Act that the

Landlord is entitled to an Order of Possession to take effect at 1:00p.m. on July 31, 2014.

Conclusion

An Order of Possession effective July 31, 2014 at 1:00 p.m. has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: July 07, 2014

Residential Tenancy Branch

