



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HomeLife Glenayre Realty Chilliwack Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNR, OP

Introduction

This hearing dealt with an application by the tenant for an order to allow the tenant more time to make application to dispute a notice to end tenancy, and to cancel a notice to end tenancy.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

- Is the tenant entitled to an extension of the time limit to apply to dispute a notice to end tenancy?
- If so, should the notice to end tenancy be cancelled?
- Is the landlord entitled to an order of possession?

Background and Evidence

The tenant gave evidence that the landlord personally served her with a Notice to End Tenancy for Unpaid Rent (the "Notice") on June 4, 2014. The Notice states the tenant failed to pay rent of \$2,500.00 that was due June 1, 2014. The Notice specifies an effective date, or move-out date, of June 17, 2014.

The tenant's Application for Dispute Resolution (the "Application") is date-stamped June 17, 2014, and the tenant agrees she filed the Application on that date. Asked why she did not file the Application earlier, the tenant gave evidence that she was not sure how to go about getting an arbitration. She spoke to another tenant who advised her she should go to the RTB immediately and she did so, on June 17th.

The landlord was asked whether she agreed to an extension of the time limit, and she advised that she did not agree.

The tenant was asked whether she paid for any repairs that she believed were emergency repairs, and she advised that she did not.

The landlord requested an order of possession.

Analysis

I find the tenant received the Notice on June 4, 2014. Section 46 of the *Residential Tenancy Act* (the "Act") says that when a tenant receives a notice to end tenancy for unpaid rent, they must either pay the overdue rent or dispute the notice within 5 days. Since the tenant did not file the Application until June 17, 2014, she did not meet the time limit set out in Section 46(4).

Section 46(5) says:

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

Section 66 sets out the circumstances in which an arbitrator can extend a time limit established by the Act:

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

(2) Despite subsection (1), the director may extend the time limit established by section 46(4)(a) [*landlord's notice: non-payment of rent*] for a tenant to pay overdue rent only in one of the following circumstances:

- (a) the extension is agreed to by the landlord;
- (b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director.

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

I find that the tenant has not established that any exceptional circumstances prevented her from meeting the 5 day time limit for filing her Application. The Notice sets out the applicable deadlines and also provides the telephone number for the RTB.

Accordingly, I do not have the authority to extend the tenant's time limit. Since the time limit cannot be extended, I cannot consider the tenant's application to cancel the Notice. For that reason, the tenant's application is dismissed and the tenancy is at an end.

Where a tenant applies to cancel a notice to end tenancy and is unsuccessful, the landlord is entitled to an order of possession. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

Conclusion

The tenant's application is dismissed. I grant the landlord an order of possession.

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 15, 2014

