



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement.

The hearing was conducted via teleconference and was attended by the landlord

During the hearing, the landlord verbally requested an order of possession should the tenant be unsuccessful in his Application.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause; to an order to have the landlord comply with the *Act*, regulation, or tenancy agreement; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 67, and 72 of the *Act*.

If the tenant is unsuccessful in the portion of his Application seeking to cancel the 1 Month Notice to End Tenancy for Cause it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

Background and Evidence

The tenant submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on November 12, 2014 with an effective vacancy date of December 1, 2014 citing the tenant is repeatedly late paying rent and the tenant has engaged in illegal activity that has or is likely to damage the landlord's property.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant is repeatedly late paying rent or the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property.

Section 47(4) of the *Act* allows a tenant to dispute a notice to end tenancy under Section 47 within 10 days after the date the tenant receives the notice. Section 47(5) states that if a tenant does not submit an Application for Dispute Resolution seeking to dispute the notice within 10 days the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the notice and must vacate the rental unit by that date.

As the tenant failed to attend this hearing I find it has the same effect as not filing an Application for Dispute Resolution within 10 days of receiving the 1 Month Notice to end Tenancy for Cause and the tenant has accepted the tenancy will end in accordance with the Notice issued on November 12, 2014. I therefore dismiss the tenant's Application for Dispute Resolution in its entirety.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

As I have dismissed the tenant's Application to cancel the notice and the landlord verbally requested an order of possession, I find the landlord is entitled to such an order, pursuant to Section 55 of the *Act*.

Section 53 of the *Act* states if a landlord or tenant gives notice to end a tenancy with an effective date that does not comply with the requirements set out in the relevant section

the party is seeking to end the tenancy under the effective date is deemed to be changed to the earliest date permitted under the applicable Section.

While the 1 Month Notice indicates an effective date of December 1, 2014 and the Notice was issued on November 12, 2014, I find the earliest possible effective date would be December 31, 2014 and I amend the notice to reflect this change.

Conclusion

I find the landlord is entitled to an order of possession effective **December 31, 2014 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: December 17, 2014

Residential Tenancy Branch

