



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cariboo Friendship Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Landlord: OPR, OPB, OPC, MNR, MNSD, O, FF
Tenants: CNC, O

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought an order of possession and a monetary order. The tenants sought to cancel a notice to end tenancy

The hearing was conducted via teleconference and was attended by two agents for the landlord and both tenants.

During the hearing the tenant submitted that she had applied for additional time to file her Application for Dispute Resolution. While there is a check mark on that box on the tenant's Application and a date was started to be put into the following box it was scribbled out and no complete date was entered as to when she received the Notice.

As such, while I don't accept that the tenant did intend in her Application for Dispute Resolution to apply for more time I will accept an amendment to the tenant's Application for to determine if she is entitled to more time, in the interest of administrative and natural justice.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; for unpaid rent; and for breach of an agreement; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 44, 46, 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Act*.

Background and Evidence

The landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement between the parties for a month to month tenancy beginning on June 15, 2010 for a monthly economic rent of \$721.00 and a security deposit of \$360.50 paid;
- A copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on September 30, 2014 with an effective vacancy date of October 31, 2014 citing the tenants have 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 landlord submits the 1 Month Notice to End Tenancy for Cause was served to the male tenant personally on September 30, 2014. The tenants submit that the male tenant was not living in the rental unit at the time, however he was staying in the unit while the female tenant was out of town dealing with a family illness and the male tenant was “housesitting” when the Notice was issued.

The female tenant testified that the male tenant received the Notice on October 1, 2014 and that she returned home on October 5, 2014 but that she did not receive a copy of the Notice until October 7, 2014. The tenant submits that she had to return to her out of town destination on October 23, 2014 and returned home again on October 29, 2014. The tenant indicated that she did have several appointments daily during the period of October 13 to 17, 2014 but she did not provide any reasons why she could not file her Application at any other times.

The parties agreed the tenant had not paid the rent that remained outstanding from July 2014 in the amount of \$196.00.

Analysis

Section 66 states the director may extend a limit established by the Act only in exceptional circumstances. Exceptional means, according to Residential Tenancy Policy Guideline 36, that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit. The word exceptional implies that the reason for failing to do something at the time required is very strong and compelling.

While I accept that there were a number of issues that the female tenant was dealing with at the time the Notice was received neither tenant provided any reason why the male tenant could not have submitted their Application, prior to the 10 days as is allowed when a notice under Section 47 is issued.

In addition, I find the tenant has provided no explanation for her delay in applying for dispute resolution that would form the grounds for extraordinary reasons for the delay. As such, I dismiss the tenant’s Application for more time to submit her Application to cancel the 1 Month Notice to End Tenancy for Cause.

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential 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.

I note the tenants submitted their Application for Dispute Resolution seeking to cancel the 1 Month Notice to End Tenancy for Cause on October 31, 2014 or 30 days after the male tenant received the Notice. As per the above, I note the tenants are not entitled to additional time to submit their Application for Dispute Resolution. As such, I find the tenants are conclusively presumed to have accepted the tenancy will end in accordance with the Notice issued on September 30, 2014.

As I have found the tenancy is ending based on the 1 Month Notice to End Tenancy for Cause I make no findings of fact or law related to the landlord's desire to end the tenancy for a breach of an agreement or based on a 10 Day Notice to End Tenancy for Unpaid Rent.

As to the landlord's monetary claim, based on the testimony of both parties I find the tenant has failed to pay the landlord the full amount of rent for the month of July 2014 in the amount claimed.

Conclusion

Based on the above, I dismiss the tenants' Application for Dispute Resolution in its entirety without leave to reapply.

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail 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.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$246.00** comprised of \$196.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit held in the amount of \$360.50 in satisfaction of this claim leaving a balance of \$114.50 to be dispersed in accordance with the requirements outlined in the *Act* at the end of the tenancy.

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 09, 2014

Residential Tenancy Branch

