



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CMHA Kootenays
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on a one month Notice to End Tenancy for cause.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Issue(s) to be Decided

The issue is whether or not to issue an Order of Possession based on a Notice to End Tenancy that was given for cause.

Background and Evidence

A Notice to End Tenancy for cause was issued on January 9, 2015.

The respondent/tenant initially disputed the Notice to End Tenancy and as a result of Dispute Resolution Hearing was held on February 5, 2015. At that hearing the parties came to a mutual agreement to work together to try and resolve their issues.

The parties also agreed that the Notice to End Tenancy would remain in place and that the application to dispute the notice would be dismissed, with leave to reapply if the parties were unable to come up with a comprehensive written plan to resolve the issues.

The parties were not able to come to a written agreement and therefore the landlord has now applied for dispute resolution, requesting an Order of Possession, based on the Notice to End Tenancy.

Counsel for the tenant has argued that he does not believe that the landlords have established grounds for ending this tenancy.

The respondent/tenant did not attend today's hearing.

Although the tenant had the right to do so, the tenant has not reapplied for dispute resolution to dispute the notice.

Analysis

Sections 47(3) & 47(5) of the Residential Tenancy Act state:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) 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.

In this case, as stated previously the tenant application was originally dismissed with leave to reapply if the parties were unable to come to a satisfactory agreement.

It is my finding therefore that once the landlords had filed for dispute resolution it was clear to the tenant that an agreement had not been reached, and therefore it was incumbent upon the tenant to reapply for dispute resolution within a reasonable timeframe.

In this case the tenant did not reapply for dispute resolution and therefore, it is my finding that the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the notice.

I therefore Order that this tenancy is ended and that the tenant must vacate the rental unit.

Since the landlord has accepted money, for use and occupancy only to the end of May 2015, I will allow the landlord's request for an Order of Possession for May 31, 2015

Conclusion

I have issued an Order of Possession for 1:00 p.m. on May 31, 2015.

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: May 27, 2015

Residential Tenancy Branch

