



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNQ, CNL

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end tenancy and more time to file his application. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to more time to file his application to dispute the notice to end tenancy?

Background and Evidence

The tenant acknowledged that on February 5, 2015, he was served with a 2 month notice to end tenancy because the tenant does not qualify for subsidized rental unit (the "Notice"). The tenant filed his application to dispute the Notice on March 23.

When asked why he had waited to file his application, the tenant replied that he had to wait until he could get documents from the Supreme Court. The tenant did not submit any documents into evidence except for the Notice.

Analysis

In order to grant more time for the tenant to file his application to dispute the Notice, the tenant must prove that exceptional circumstances prevented him from complying with the statutorily prescribed timeframe. I find that the circumstances described are not exceptional and I dismiss the claim for more time to file the application. While the tenant may have wished to submit Supreme Court documents into evidence, there was nothing preventing him from filing his application on time and adding those documents as they became available. The fact that the tenant did not submit any documentation

from the court supports my decision not grant an extension of time as the tenant clearly felt free to file his application 6 weeks late without the supporting evidence.

As the tenant has not filed his application within the prescribed timeframe and as he does not qualify for an extension of time, I find that section 49(9) of the Act operates to end the tenancy. This section provides that if the tenant does not file his application to dispute the Notice within 15 days of receipt, he is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

I find that the tenancy has ended and I dismiss the tenant's application.

The landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court. The order will take effect at 1:00 p.m. on May 31, 2015.

Conclusion

The tenant's claim is dismissed and the landlord is granted 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: May 01, 2015

Residential Tenancy Branch

