



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

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

Issue to be Decided

Should the tenant be granted an extension of time to file his application?

Background and Evidence

The parties agreed that on March 25, 2015, the landlord served on the tenant a one month notice to end tenancy for cause (the "Notice"). The tenant filed an application to dispute the Notice on April 28, 2015. The tenant's advocate testified that the tenant has capacity and substance abuse issues and was unsure how he could file an application to dispute the notice, did not know who he could approach to assist him and was unaware of why the landlord wanted to end his tenancy.

Analysis

Section 66(1) of the Act provides that I can grant an extension of time only in exceptional circumstances. The tenant has the burden of proving on the balance of probabilities that the circumstances preventing him from filing the application are exceptional. I find that the tenant has not met that burden. The tenant's advocate claimed that the tenant has capacity issues, but provided no medical evidence to support that claim. She further stated that he has substance abuse issues and while I accept that this is the case, the tenant entered into evidence a letter dated April 27 and authored by an individual who identified himself as a "Substance Use and Mental Health Support and Recovery Worker" in which the worker stated that he had been "engaged

with Mr. [name] for the last month". The tenant had clearly sought help to deal with substance abuse issues and had the assistance of this support worker for many weeks prior to the time he filed his application to dispute the Notice.

I do not accept that the tenant did not know who could help him resolve the issue of his tenancy as he was receiving support from a professional health worker who, according to his letter, had as his core mandate support for clients who have insufficient housing.

I find that the circumstances which prevented the tenant from applying to dispute the Notice cannot be characterized as exceptional and therefore the tenant does not meet the test to be granted an extension of time to file his application. I therefore dismiss the tenant's application.

During the hearing 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. As the tenant has paid rent for the month of June, I find it appropriate to make the order effective on June 30, 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: June 11, 2015

Residential Tenancy Branch

