



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Belmont Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, CNR, MNDC

Introduction

This hearing dealt with an application by the tenant for orders setting aside two notices to end this tenancy and a monetary order. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notices to end tenancy be set aside?
Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The facts are not in dispute. The tenant received from the landlord a one month notice to end tenancy (the "Cause Notice") on May 6. She did not apply to dispute the Cause Notice until June 10 at which time she also disputed a 10 day notice to end tenancy for unpaid rent (the "Rent Notice") which she received on June 8. The tenant did not make a claim for an extension of time in which to dispute the Cause Notice, but at the hearing I asked her why she waited for more than one month to dispute the Cause Notice. She explained that she did not have money to photocopy the Cause Notice. The tenant did not provide on her application for dispute resolution any details about her monetary claim.

Analysis

Section 47(5) of the Act provides that if a tenant does not dispute a notice to end tenancy for cause within 10 days after receiving the notice, they are conclusively presumed that the tenancy ended on the effective date of the notice. I find that the tenant waited 33 days to dispute the Cause Notice, did not request an extension of time in which to file her dispute and in any event, did not prove that exceptional

circumstances prevented her from filing her dispute within 10 days of receipt of the Cause Notice. I therefore find that the tenant is conclusively presumed to have accepted that the tenancy ended in accordance with the Cause Notice and must vacate the rental unit. As the tenancy is ending pursuant to the Cause Notice, it is unnecessary for me to address the Rent Notice. I dismiss the tenant's claim for an order setting aside these notices.

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.

The Residential Tenancy Rules of Procedure require applicants requesting a monetary order to provide details of their monetary claim together with their application. As the tenant did not provide details of her monetary claim prior to the hearing despite the directions on the application for dispute resolution having clearly directed her to do so, I dismiss the monetary claim with leave to reapply.

Conclusion

The tenant's application 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: August 05, 2015

Residential Tenancy Branch

