



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MDSD & FF

Introduction

A hearing was conducted by conference call in the presence of the landlord and in the absence of the tenant. The tenant was not present at the scheduled start time for the hearing. Three representatives of the landlord were present and ready to proceed. At approximately 4 minutes past the scheduled start time the tenant made contact with the conference call. However, approximately 30 seconds later he disconnected. I waited approximately 10 minutes monitoring the telephone conference call bridge number but the tenant failed to re-connect. At that stage I determined it was appropriate to continue with the hearing in the absence of the tenant. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy was personally served on the Tenant on June 26, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by the landlord was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides on July 13, 2015.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order granting him more time to file the Application for Dispute Resolution filed on July 9, 2015?
- b. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated June 26, 2015?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on June 1, 2013. The rent is \$375 per month payable on the first day of each month. The tenant paid a security deposit of \$187.50 at the start of the tenancy. The tenant failed to pay the rent for the month of September 2015.

Tenant's Application:

The Notice to End Tenancy relies on the following grounds:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

- (c) there are an unreasonable number of occupants in a rental unit;
- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - (i) has caused or is likely to cause damage to the landlord's property,
 - (ii) 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, or
 - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;
- (g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [obligations to repair and maintain], within a reasonable time;
- (i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 [assignment and subletting];

The one month Notice to End Tenancy was personally served on the Tenant on June 26, 2015. Section 47(4) and (5) of the Act provides as follows:

47 (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.

The tenant failed to file an Application for Dispute Resolution seeking an order to cancel the one month Notice within the 10 day period. The Application for Dispute Resolution filed by the tenant seeks more time to file the within Application. Section 66(1) of the Act provides as follows:

Director's orders: changing time limits

66 (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*.

Exceptional circumstances have not been established. There is no basis based on the materials on file to grant the tenant an extension of time to bring the Application to set aside the Notice to End Tenancy.

The tenant failed to re-connect to the conference call and failed to present evidence at the hearing. As a result I ordered that the tenant's application to cancel the one month Notice to End Tenancy be dismissed without leave to re-apply.

The Residential Tenancy Act provides that where a landlord has made an oral request for an Order for Possession at a hearing where a dispute resolution officer has dismissed a tenant's application to set aside a Notice to End Tenancy, the dispute resolution officer must grant an Order for Possession. The landlord made this request at the hearing. As a result I granted the landlord an Order for Possession.

Landlord's Application - Analysis - Order of Possession:

The landlord is also entitled to an Order for Possession based on its application. The Tenant's application to cancel the one month Notice to End Tenancy has been dismissed. The landlord presented considerable documentary evidence establishing sufficient cause to end the tenancy based on an unreasonable number of people living in the rental unit, significantly interfering with and unreasonably disturbing the other tenants, and seriously jeopardizing the health and safety and other lawful right or interest of the landlord. The rent for September has not been paid. Accordingly, I granted the landlord an Order for Possession on 2 days notice.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I further order that the tenant pay to the landlord the sum of \$50 such sum may be deducted from the security deposit.

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: September 14, 2015

Residential Tenancy Branch

