



## **Dispute Resolution Services**

Residential Tenancy Branch  
Office of Housing and Construction Standards

### **DECISION**

#### **Dispute Codes:**

CNC, OPC, LRE, FF

#### **Introduction**

This hearing was convened in response to cross applications.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to set aside a Notice to End Tenancy for Cause and for an Order suspending or setting conditions on the Landlord's right to enter the rental unit.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession and to recover the fee for filing an Application for Dispute Resolution.

The Landlord stated that on August 20, 2015 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord submitted with the Application for Dispute Resolution were sent to the Tenant, via registered mail, at the rental unit. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)* however the Tenant did not appear at the hearing.

On October 12, 2015 the Landlord submitted additional documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were served to the Tenant by registered mail on October 05, 2015. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

#### **Preliminary Matter**

This hearing commenced at the scheduled start time of 9:00 a.m. on October 21, 2015 and was concluded at 9:12 a.m. The Landlord was in attendance at the hearing but the Tenant did not appear. As the Tenant did not appear in support of his Application for Dispute Resolution, I find that he did not diligently pursue his Application for Dispute Resolution and I dismiss it without leave to reapply.

#### **Issue(s) to be Decided**

Should the Landlord be granted an Order of Possession?

### Background and Evidence

The Landlord stated that:

- the Tenant moved into the rental unit prior to the Landlord entering into a tenancy agreement with the Tenant;
- when the Tenant first moved into the rental unit he had a tenancy agreement with someone who was leasing the residential complex from the Landlord;
- the Landlord and the Tenant entered into a verbal tenancy agreement on March 08, 2015 or March 09, 2015;
- the Tenant agreed to pay rent of \$500.00 by the first day of each month;
- on July 25, 2015 he personally served the Tenant with a One Month Notice to End Tenancy for Cause;
- the Notice to End Tenancy declared that the Tenant must vacate the rental unit by September 01, 2015;
- the Notice to End Tenancy declared that the Landlord is ending the tenancy to comply with a government order;
- he is not sure if the Tenant has recently vacated the rental unit;
- he is ending the tenancy because he received an order from the fire department requiring him to return the multi tenancy premises to a single tenancy premises;
- when the order was issued by the fire department the residential complex was being occupied by five tenants, each of whom had a separate tenancy agreement;
- he is attempting to end all five tenancies; and
- he thinks there are currently four people occupying the residential complex.

The Landlord submitted a copy of an order from the municipal fire department, dated November 04, 2014, which declared, in part, that the rental unit must be converted from a “multi tenancy premises to a single tenancy premises forthwith”.

### Analysis

Section 47(1)(k) of the *Act* authorizes a landlord to end a tenancy if the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority, providing the landlord serves the tenant with a valid One Month Notice to End Tenancy.

On the basis of the testimony of the Landlord and in the absence of evidence to the contrary, I find that on July 25, 2015 the Landlord personally served the Tenant with a One Month Notice to End Tenancy for Cause. The One Month Notice to End Tenancy for Cause, which was submitted in evidence, appears to comply with section 52 of the *Act*.

On the basis of the order from the testimony of the Landlord and the order from the municipal fire department that was submitted in evidence, I find that there is a government order that requires the Landlord to end all of the tenancies in this residential complex, except for one. On the basis of the testimony of the Landlord and in the absence of evidence to the contrary, I find that there are currently more than two people occupying the residential complex under separate tenancy agreements and that the Landlord, therefore, has the right to end the Tenant's tenancy, pursuant to section 47(1)(k) of the *Act*. I therefore grant the Landlord's application for an Order

of Possession.

Section 47(2) of the *Act* stipulates that a One Month Notice to End Tenancy for Cause must end the tenancy effective on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement. When rent is due by the first of each month, a One Month Notice to End Tenancy must end the tenancy on the last day of the month. In these circumstances, where the One Notice to End Tenancy was served on July 25, 2015, the Notice could have ended the tenancy on August 31, 2015.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice to End Tenancy is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. As the Notice to End Tenancy that is the subject of this dispute declared that the tenancy ends on September 01, 2015, which does not comply with section 47(2) of the *Act*, I find that the true effective date of this Notice to End Tenancy was September 30, 2015.

I find that the Landlord's Application for Dispute Resolution has merit and that he is entitled to recover the fee for filing an Application for Dispute Resolution.

### Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim of \$50.00 in compensation for the fee paid to file this Application for Dispute Resolution and I grant the Landlord a monetary Order for \$50.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: October 21, 2015

---

Residential Tenancy Branch